



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

20 JUL 2006

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 293(EC), "AN ACT TO AMEND §§ 8201(m), 8206, 8206.1, AND 8207 OF TITLE 4 G.C.A. RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND TITLE 4 G.C.A. §8210 AND §8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND TITLE 4 G.C.A. §8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT-ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; TO AMEND TITLE 4 G.C.A. §8217 TO CLARIFY THAT ADMINISTRATIVE FEES, CHARGES, AND FORFEITURES MAY BE APPLIED TO OFFSET THE DEFINED CONTRIBUTION RETIREMENT SYSTEM STARTUP COSTS; AND TO ADD A NEW §40109(c) TO TITLE 5 G.C.A. REGARDING THE VILLAGE MAYORS," which I signed into law on July 18, 2006, as Public Law 28-141.

Sinsuru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'luhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo
Senator and Legislative Secretary

Office of the Speaker
MARK FORBES

Date: 7/20/06
Time: 3:15 PM
Rec'd by: [Signature]
Print Name: [Signature]

28-06-0962



MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

COPY

July 6, 2006


The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 148(LS) & 293(EC) which were passed by *I Mina' Bente Ocho Na Liheslaturan Guåhan* on July 3, 2006.

Sincerely,


EDWARD J.B. CALVO
Senator and Secretary of the Legislature

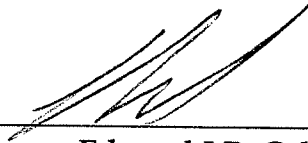
Enclosures (2)

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

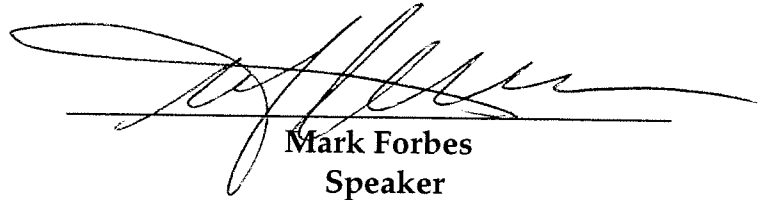
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 293 (EC), "AN ACT TO AMEND §§8201(m), 8206, 8206.1, AND 8207 OF TITLE 4 G.C.A. RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND TITLE 4 G.C.A. §8210 AND §8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND TITLE 4 G.C.A. §8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT-ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; TO AMEND TITLE 4 G.C.A. §8217 TO CLARIFY THAT ADMINISTRATIVE FEES, CHARGES, AND FORFEITURES MAY BE APPLIED TO OFFSET THE DEFINED CONTRIBUTION RETIREMENT SYSTEM START-UP COSTS; AND TO ADD A NEW §40109(c) TO TITLE 5 G.C.A. REGARDING THE VILLAGE MAYORS," was on the 3rd day of July, 2006, duly and regularly passed.

Attested:

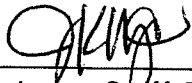


Edward J.B. Calvo
Senator and Secretary of the Legislature




Mark Forbes
Speaker

This Act was received by *I Maga'lahaen Guåhan* this 6th day of July, 2006, at
12:10 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 18 July 2006

Public Law No. 28-141

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session**

Bill No. 293 (EC)

As amended in the
Committee of the Whole and
further amended on the Floor.

Introduced by:

Mark Forbes
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
B. J.F. Cruz
Mike Cruz
L. F. Kasperbauer
R. Klitzkie
J. A. Lujan
A. B. Palacios, Sr.
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

AN ACT TO AMEND §§8201(m), 8206, 8206.1, AND 8207 OF TITLE 4 G.C.A. RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND TITLE 4 G.C.A. §8210 AND §8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND TITLE 4 G.C.A. §8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT-ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; TO AMEND TITLE 4 G.C.A. §8217 TO CLARIFY THAT ADMINISTRATIVE FEES,

**CHARGES, AND FORFEITURES MAY BE APPLIED
TO OFFSET THE DEFINED CONTRIBUTION
RETIREMENT SYSTEM START-UP COSTS; AND TO
ADD A NEW §40109(c) TO TITLE 5 G.C.A.
REGARDING THE VILLAGE MAYORS.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that, effective October 1, 2005, all new GovGuam employees, even those whose employment is purely temporary, seasonal, intermittent or part-time, participate in the Defined Contribution Retirement System, rather than having the option to reject membership, in which case the employer and employee would contribute to Social Security.

I Liheslaturan Guåhan further finds that to minimize "double dipping" by GovGuam retirees, Defined Benefit Plan annuities must be suspended upon re-employment by GovGuam, even if a retiree participates in the Defined Contribution Retirement System.

I Liheslaturan Guåhan further finds that the Defined Contribution Retirement statute should be amended to authorize assignments pursuant to court-ordered child support and alimony payments and to clarify that administrative fees, charges and forfeitures may be applied to offset Defined Contribution Retirement System start-up costs, as noted by the Public Auditor's Report on Compliance and Internal Control Over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards*, Finding No. 202-5, dated September 30, 2003 and 2002.

Section 2. §8201(m) of Article 2, Chapter 8, Title 4 of the Guam Code Annotated is hereby *amended* to read as follows:

1 “(m) *Member of the Defined Contribution Retirement System* means
2 any person who is eligible to participate and participates in the Defined
3 Contribution Retirement System in accordance with §§8206, 8206.1 and
4 8207.”

5 **Section 3.** §8206 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
6 is hereby *amended* to read as follows:

7 “**§8206. Participation in Government of Guam Defined**
8 **Contribution System; Limiting Participation in Existing Retirement**
9 **System.** (a) Beginning October 1, 1995, the Government of Guam Defined
10 Contribution System shall be the single retirement program for all new
11 employees whose employment commences on or after that date. *No*
12 additional new employees may be admitted to the existing retirement
13 system, *except* as provided from time to time in the existing retirement
14 system. Members of the existing retirement system whose employment
15 continues beyond September 30, 1995, shall continue to contribute and
16 participate in the existing retirement system without change in provisions or
17 benefits, *except* as provided from time to time in the existing retirement
18 system.

19 (b) Any employee who leaves government service after September
20 30, 1995 who is later reemployed by the Government of Guam shall become
21 a member of the Defined Contribution Retirement System, *except* persons
22 who are ineligible for membership under §8206.1; provided, that he or she
23 shall be entitled to readmission to the existing retirement system in which he
24 or she was originally a member if such employee has not withdrawn his or
25 her contributions from the existing retirement system. However, if such
26 employee has withdrawn his or her contributions from the existing

1 retirement system, the readmission to the existing retirement system shall
2 *not* be permitted and the employee will be entitled *only* to membership in the
3 Government of Guam Defined Contribution System in accordance with this
4 Article.

5 (c) Any employee who retires after September 30, 1995, and who
6 later becomes re-employed by the Government of Guam shall be entitled to
7 re-admission to the existing retirement system and subject to suspension of
8 annuity requirements pursuant to Title 4 GCA §8121, as *amended*. If such
9 re-employed retiree is prohibited from re-admission to the existing
10 retirement system and becomes a member of the Defined Contribution
11 Retirement System, his annuity under the existing plan shall be suspended in
12 the same manner and to the same extent applicable to similarly situated
13 employees pursuant to Title 4 GCA §8121, as *amended*, provided that *no*
14 employee of *I Liheslaturan Guåhan* who has previously retired may become
15 a member of the Defined Contribution Retirement System.

16 (d) An employee whose employment commences after October 1,
17 2005 and whose employment is purely temporary, seasonal, intermittent or
18 part-time shall be a member of the Defined Contribution Retirement System
19 *unless* the employee is eligible for re-admission to the existing retirement
20 system.”

21 **Section 4. §8206.1 of Article 2, Chapter 8, Title 4 of the Guam Code**
22 **Annotated is hereby *amended* to read as follows:**

23 “§8206.1. **Same: Ineligible Persons.** The following persons shall
24 *not* be eligible for membership:

- 25 (a) Persons whose services are compensated on a fee basis.
26 (b) Independent contractors.

1 (c) Persons whose employment is for a specific project.

2 (d) Persons who are employed in the Senior Citizens Community
3 Employment Program.”

4 **Section 5.** §8207 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
5 is hereby *amended* to read as follows:

6 “§8207. **Voluntary Participation in System.** (a) Any member with
7 *less than* twenty (20) years service credit, recognized under the existing
8 system, may, upon written election, voluntarily elect membership in the
9 Government of Guam Defined Contribution System, on a prospective basis,
10 on or after October 1, 1995. Said member of the existing retirement system,
11 upon election to withdraw that person's contribution plus interest, must then
12 deposit such funds into the Government of Guam Defined Contribution
13 Retirement System; and as a result thereof, such member's years of service
14 credit in the existing system shall be applied towards the years of
15 employment service for vesting purposes under §8210 of this Article, and *no*
16 further benefits will be payable to such member under the existing
17 retirement system.

18 (b) Members electing to transfer to the Defined Contribution
19 Retirement System will have their transfers effective at the end of the first
20 pay period following the month of transfer. Employees will have sixty-five
21 (65) months after enactment of this legislation, and between March 1 and
22 May 31 of every year, beginning in the year 2002, in which to elect to
23 transfer to the Defined Contribution Retirement System. After having made
24 such election, the employee may *not* change such election or again become a
25 member of the existing retirement system. Any member who *does not* select
26 one (1) option or the other at the end of the sixty-five (65) month period,

1 *except* as provided for in this Section, shall be deemed to have irrevocably
2 elected to be a member in the existing system.

3 (c) Notwithstanding (a) and (b) above, for employment
4 commencing prior to October 1, 2005, any employee whose employment is
5 purely temporary, seasonal, intermittent or part-time may accept or reject
6 membership and shall become a member *only* upon submission of a written
7 request to the Board for membership; this option shall expire on October 1,
8 2005 at which time membership in the Defined Contribution Retirement
9 System shall be mandatory *unless* the employee is eligible for readmission to
10 the existing retirement system.”

11 **Section 6.** The heading of §8210 of Article 2, Chapter 8, Title 4 of the Guam
12 Code Annotated is hereby *amended* to read as follows:

13 **“§8210. Termination of Membership. Vesting Schedule.”**

14 **Section 7.** §8211 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
15 is hereby *amended* to read as follows:

16 **“§8211. Distributions Following Termination of Employment. (a)**
17 Normal and Early Retirement. At any time after a member reaches the early
18 retirement age of fifty-five (55) years and has completed five (5) years of
19 employment for vesting purposes, or reaches the normal retirement age of
20 sixty-five (65) years, that person may elect to receive retirement benefits by
21 notifying the Board, or its designee, in writing, of such intention *not less*
22 *than* sixty (60) days prior to the effective date of retirement. Retirement
23 payments shall commence as soon as practicable after retirement in
24 accordance with the Defined Contribution Retirement System Plan
25 Document.

1 (b) Disability. In the event of disability, a member may elect to
2 receive a distribution of the member's vested account balances as soon as
3 practicable after termination of employment due to disability as defined in
4 the Defined Contribution Retirement System Plan Document; provided, that
5 any distribution of the member's vested account balances will render the
6 member ineligible to receive any pre-retirement benefits provided under any
7 long-term disability insurance policy issued pursuant to §8213 or Article 4
8 of this Title. In the event of disability after termination of employment, a
9 member may elect to receive a distribution of that member's vested account
10 balances as soon as practicable after certification of said disability in
11 accordance with the Defined Contribution Retirement System Plan
12 Document.

13 (c) Death. In the event of a member's death, distribution of the
14 member's vested account balances to the member's beneficiaries shall be
15 made as soon as practicable after death in accordance with the Defined
16 Contribution Retirement System Plan Document.

17 (d) Other Termination of Employment. In the event of termination
18 of employment for reasons other than retirement, disability or death, a
19 member may elect to receive a distribution of the member's vested account
20 balances as soon as practicable after termination of employment.”

21 **Section 8.** §8216 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
22 is hereby *amended*, retroactively to the date of any applicable court orders, to read as
23 follows:

24 “§8216. **Right to Benefits Not Subject to Execution, etc.** The right
25 of any person to a benefit provided for in this Article shall *not* be subjected
26 to execution, attachment, garnishment, the operation of bankruptcy or

1 insolvency laws, or other process whatsoever, nor shall any assignment
2 thereof be enforceable in any court, except court orders that relate to the
3 provision or payment of child support, spousal support, or distribution of
4 marital property to a spouse, child or other tax dependent issued pursuant to
5 Guam's or another jurisdiction's domestic relations law."

6 **Section 9.** §8217 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
7 is hereby *amended*, retroactively to October 1, 2001, to read as follows:

8 **"§8217. Administrative Expenses.** (a) Fees Or Charges Paid By
9 Participants. The Board of Trustees may provide for administrative fees or
10 charges to be paid by participants in the following manner:

11 (1) For fiscal years beginning October 1, 1995, and October 1,
12 1996, the Board of Trustees may assess an amount *up to* four percent
13 (4%) of the employer and member contributions.

14 (2) For fiscal years beginning October 1, 1997, and thereafter,
15 the Board of Trustees may assess an amount *up to* two percent (2%) of
16 the employer and member contributions.

17 (b) Any amounts collected under §8217(a), but *not* needed for
18 administrative expenses, including start-up costs of the plan, shall be
19 allocated to member accounts.

20 (c) Use of Forfeitures. For fiscal years beginning October 1, 2001 and
21 thereafter, the Board of Trustees shall use the aggregate amount of
22 forfeitures released from the suspense account described in §8210(e) at the
23 end of each fiscal year to pay for the plan's administrative expenses,
24 including start-up costs of the plan, and to reduce administrative fees or
25 charges paid by participants under §8217(a)."

1 **Section 10.** A new subsection (c) is hereby *added* to Title 5 G.C.A. §40109 to
2 read:

3 “(c) A village mayor or vice-mayor who has retired from the
4 government of Guam who is eligible to receive retirement benefits from the
5 Government of Guam Retirement Fund under either the Defined Benefit
6 Plan created by Title 4 G.C.A. Chapter 8, Article One, or the Defined
7 Contribution System created by Title 4 G.C.A. Chapter 8, Article Two, shall
8 *not* relinquish, forfeit or have such benefits suspended during the periods
9 said official holds his respective office; provided, however, that such a
10 mayor or vice-mayor, if he is a member of the Defined Benefit Plan, shall
11 *not* be deemed an active member of that Plan during his service in that
12 office, and shall be eligible to contribute to the Defined Contribution
13 System.”

14 **Section 11.** This enactment shall take effect retroactively as of October 1,
15 2005, *except* as expressly provided herein.

16 **Section 12.** Severability. *If* any provision of this Act or its application to any
17 person or circumstances is held invalid, the invalidity shall *not* affect other provisions
18 or applications of this Act which can be given effect without the invalid provision or
19 application, and to this end the provisions of this Act are severable.

Amfian - Judd
6/26/06

3rd
7/3/06

W/O engrossment
7/3/06
[Handwritten signatures and initials]

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session**

Bill No. 293 (EC)

As amended in the
Committee of the Whole.

*

Introduced by:

Mark Forbes
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
B. J.F. Cruz
Mike Cruz
L. F. Kasperbauer
R. Klitzkie
J. A. Lujan
A. B. Palacios, Sr.
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

AN ACT TO AMEND §§8201(m), 8206, 8206.1, AND 8207 OF TITLE 4 G.C.A. RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND TITLE 4 G.C.A. §8210 AND §8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND TITLE 4 G.C.A. §8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT-ORDERED CHILD SUPPORT AND

ALIMONY PAYMENTS; AND TO *AMEND* TITLE 4
G.C.A. §8217 TO CLARIFY THAT
ADMINISTRATIVE FEES, CHARGES, AND
FORFEITURES MAY BE APPLIED TO OFFSET THE
DEFINED CONTRIBUTION RETIREMENT SYSTEM
START-UP COSTS, AND TO *ADD* A NEW §40109(c)
TO TITLE 5 G.C.A. REGARDING THE VILLAGE
MAYORS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that, effective as of October 1, 2005, all new GovGuam employees, even those whose
4 employment is purely temporary, seasonal, intermittent or part-time participate in the
5 Defined Contribution Retirement System, rather than having the option to reject
6 membership, in which case the employer and employee would contribute to Social
7 Security.

8 *I Liheslaturan Guåhan* further finds that to minimize "double dipping" by
9 GovGuam retirees, Defined Benefit Plan annuities must be suspended upon
10 re-employment by GovGuam, even if a retiree participates in the Defined Contribution
11 Retirement System.

12 *I Liheslaturan Guåhan* further finds that the Defined Contribution Retirement
13 statute should be amended to authorize assignments pursuant to court-ordered child
14 support and alimony payments and to clarify that administrative fees, charges and
15 forfeitures may be applied to offset Defined Contribution Retirement System start-up
16 costs, as noted by the Public Auditor's Report on Compliance and Internal Control
17 Over Financial Reporting Based on an Audit of Financial Statements Performed in
18 Accordance with *Government Auditing Standards*, Finding No. 202-5, dated
19 September 30, 2003 and 2002.

1 **Section 2.** §8201(m) of Article 2, Chapter 8, Title 4 of the Guam Code
2 Annotated is hereby *amended* to read as follows:

3 “(m) *Member of the Defined Contribution Retirement System* means
4 any person who is eligible to participate and participates in the Defined
5 Contribution Retirement System in accordance with Sections 8206, 8206.1
6 and 8207.”

7 **Section 3.** §8206 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
8 is hereby *amended* to read as follows:

9 “**§8206. Participation in Government of Guam Defined**
10 **Contribution System; Limiting Participation in Existing Retirement**
11 **System.**

12 (a) Beginning October 1, 1995, the Government of Guam Defined
13 Contribution System shall be the single retirement program for all new
14 employees whose employment commences on or after that date. No
15 additional new employees may be admitted to the existing retirement
16 system, except as provided from time to time in the existing retirement
17 system. Members of the existing retirement system whose employment
18 continues beyond September 30, 1995, shall continue to contribute and
19 participate in the existing retirement system without change in provisions or
20 benefits, except as provided from time to time in the existing retirement
21 system.

22 (b) Any employee who leaves government service after September
23 30, 1995 who is later reemployed by the Government of Guam shall become
24 a member of the Defined Contribution Retirement System, except persons
25 who are ineligible for membership under §8206.1; provided, that he or she
26 shall be entitled to readmission to the existing retirement system in which he

1 or she was originally a member if such employee has not withdrawn his or
2 her contributions from the existing retirement system. However, if such
3 employee has withdrawn his or her contributions from the existing
4 retirement system, the readmission to the existing retirement system shall
5 not be permitted and the employee will be entitled only to membership in the
6 Government of Guam Defined Contribution System in accordance with this
7 Article.

8 (c) Any employee who retires after September 30, 1995, and who
9 later becomes re-employed by the Government of Guam shall be entitled to
10 re-admission to the existing retirement system and subject to suspension of
11 annuity requirements pursuant to 4 GCA §8121, as *amended*. If such re-
12 employed retiree is prohibited from re-admission to the existing retirement
13 system and becomes a member of the Defined Contribution Retirement
14 System, his annuity under the existing plan shall be suspended in the same
15 manner and to the same extent applicable to similarly situated employees
16 pursuant to Title 4 GCA §8121, as *amended*.

17 (d) An employee whose employment commences after October 1,
18 2005 and whose employment is purely temporary, seasonal, intermittent or
19 part-time shall be a member of the Defined Contribution Retirement System
20 unless the employee is eligible for re-admission to the existing retirement
21 system.”

22 **Section 4. §8206.1 of Article 2, Chapter 8, Title 4 of the Guam Code**
23 **Annotated is hereby *amended* to read as follows:**

24 “§8206.1. **Same: Ineligible Persons.** The following persons shall
25 *not* be eligible for membership:

26 (a) Persons whose services are compensated on a fee basis.

I MINA' BENTE OCHO NA LIHESLATURAN GUĀHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 293

Mark Forbes
Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

On page four, line 16, to add a final phrase to subsection (c) after the word "amended" to say:

", provided that no employee of I Liheslaturan Guahan who has previously retired may become a member of the Defined Contribution Retirement System."

(Below only for Clerk of Legislature's use and processing)

7/3/06

Date ~~6/27/06~~

Floor Amendment No. 1 of a total of _____ changes on above Bill.

Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: ✓

Amendment Failed: _____

Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED

[Signature]
AUTHOR OF AMENDMENT

Concur *(initial)*

[Signature]
Clerk of Legislature

Speaker

Ass't. Amend. Clerk
Engrossment Staff

- 1 (b) Independent contractors.
- 2 (c) Persons whose employment is for a specific project.
- 3 (d) Persons who are employed in the Senior Citizens Community
- 4 Employment Program.”

5 **Section 5.** §8207 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
6 is hereby *amended* to read as follows:

7 “§8207. **Voluntary Participation in System.** (a) Any member with
8 less than twenty (20) years service credit, recognized under the existing
9 system, may, upon written election, voluntarily elect membership in the
10 Government of Guam Defined Contribution System, on a prospective basis,
11 on or after October 1, 1995. Said member of the existing retirement system,
12 upon election to withdraw that person's contribution plus interest, must then
13 deposit such funds into the Government of Guam Defined Contribution
14 Retirement System; and as a result thereof, such member's years of service
15 credit in the existing system shall be applied towards the years of
16 employment service for vesting purposes under §8210 of this Article, and no
17 further benefits will be payable to such member under the existing
18 retirement system.

19 (b) Members electing to transfer to the Defined Contribution
20 Retirement System will have their transfers effective at the end of the first
21 pay period following the month of transfer. Employees will have sixty-five
22 (65) months after enactment of this legislation, and between March 1 and
23 May 31 of every year, beginning in the year 2002, in which to elect to
24 transfer to the Defined Contribution Retirement System. After having made
25 such election, the employee may not change such election or again become a
26 member of the existing retirement system. Any member who does not select

1 one (1) option or the other at the end of the sixty-five (65) month period,
2 except as provided for in this Section, shall be deemed to have irrevocably
3 elected to be a member in the existing system.

4 (c) Notwithstanding (a) and (b) above, for employment
5 commencing prior to October 1, 2005, any employee whose employment is
6 purely temporary, seasonal, intermittent or part-time may accept or reject
7 membership and shall become a member only upon submission of a written
8 request to the Board for membership; this option shall expire on October 1,
9 2005 at which time membership in the Defined Contribution Retirement
10 System shall be mandatory unless the employee is eligible for readmission to
11 the existing retirement system..”

12 **Section 6.** The heading of Section 8210 of Article 2, Chapter 8, Title 4 of the
13 Guam Code Annotated is hereby *amended* to read as follows:

14 **“§8210. Termination of Membership. Vesting Schedule.”**

15 **Section 7.** §8211 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
16 is hereby *amended* to read as follows:

17 **“§8211. Distributions Following Termination of Employment. (a)**
18 Normal and Early Retirement. At any time after a member reaches the early
19 retirement age of fifty-five (55) years and has completed five (5) years of
20 employment for vesting purposes, or reaches the normal retirement age of
21 sixty-five (65) years, that person may elect to receive retirement benefits by
22 notifying the Board, or its designee, in writing, of such intention not less
23 than sixty (60) days prior to the effective date of retirement. Retirement
24 payments shall commence as soon as practicable after retirement in
25 accordance with the Defined Contribution Retirement System Plan
26 Document.

1 (b) Disability. In the event of disability a member may elect to
2 receive a distribution of the member's vested account balances as soon as
3 practicable after termination of employment due to disability as defined in
4 the Defined Contribution Retirement System Plan Document; provided, that
5 any distribution of the member's vested account balances will render the
6 member ineligible to receive any pre-retirement benefits provided under any
7 long-term disability insurance policy issued pursuant to §8213 or Article 4
8 of this Title. In the event of disability after termination of employment, a
9 member may elect to receive a distribution of that member's vested account
10 balances as soon as practicable after certification of said disability in
11 accordance with the Defined Contribution Retirement System Plan
12 Document.

13 (c) Death. In the event of a member's death, distribution of the
14 member's vested account balances to the member's beneficiaries shall be
15 made as soon as practicable after death in accordance with the Defined
16 Contribution Retirement System Plan Document.

17 (d) Other Termination of Employment. In the event of termination
18 of employment for reasons other than retirement, disability or death, a
19 member may elect to receive a distribution of the member's vested account
20 balances as soon as practicable after termination of employment.”

21 **Section 8.** §8216 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
22 is hereby *amended*, retroactively to the date of any applicable court orders, to read as
23 follows:

24 “§8216. **Right to Benefits Not Subject to Execution, etc.** The right
25 of any person to a benefit provided for in this Article shall *not* be subjected
26 to execution, attachment, garnishment, the operation of bankruptcy or

1 insolvency laws, or other process whatsoever, nor shall any assignment
2 thereof be enforceable in any court, except court orders that relate to the
3 provision or payment of child support, spousal support, or distribution of
4 marital property to a spouse, child or other tax dependent issued pursuant to
5 Guam's or another jurisdiction's domestic relations law.”

6 **Section 9.** §8217 of Article 2, Chapter 8, Title 4 of the Guam Code Annotated
7 is hereby *amended*, retroactively to October 1, 2001, to read as follows:

8 “§8217. **Administrative Expenses.** (a) Fees Or Charges Paid By
9 Participants. The Board of Trustees may provide for administrative fees or
10 charges to be paid by participants in the following manner:

11 (1) For fiscal years beginning October 1, 1995, and October 1,
12 1996, the Board of Trustees may assess an amount up to four percent
13 (4%) of the employer and member contributions.

14 (2) For fiscal years beginning October 1, 1997, and thereafter,
15 the Board of Trustees may assess an amount up to two percent (2%) of
16 the employer and member contributions.

17 (b) Any amounts collected under §8217(a), but not needed for
18 administrative expenses, including start-up costs of the plan, shall be
19 allocated to member accounts.

20 (c) Use of Forfeitures. For fiscal years beginning October 1, 2001 and
21 thereafter, the Board of Trustees shall use the aggregate amount of
22 forfeitures released from the suspense account described in 8210(e) at the
23 end of each fiscal year to pay for the plan's administrative expenses,
24 including start-up costs of the plan, and to reduce administrative fees or
25 charges paid by participants under §8217(a).”

1 **Section 10.** A new subsection (c) is hereby *added* to Title 5 G.C.A. §40109 to
2 read:

3 “(c) A village mayor or vice-mayor who has retired from the
4 government of Guam who is eligible to receive retirement benefits from the
5 Government of Guam Retirement Fund under either the Defined Benefit
6 Plan created by Title 4 G.C.A. Chapter 8, Article One, or the Defined
7 Contribution System created by Title 4 G.C.A. Chapter 8, Article Two, shall
8 not relinquish, forfeit or have such benefits suspended during the periods
9 said official holds his respective office; provided, however, that such a
10 mayor or vice-mayor, if he is a member of the Defined Benefit Plan, shall
11 not be deemed an active member of that Plan during his service in that
12 office, and shall be eligible to contribute to the Defined Contribution
13 System.”

14 **Section 11.** This enactment shall take effect retroactively as of October 1,
15 2005, *except* as expressly provided herein.

16 **Section 12.** Severability. *If* any provision of this Act or its application to any
17 person or circumstances is held invalid, the invalidity shall *not* affect other provisions
18 or applications of this Act which can be given effect without the invalid provision or
19 application, and to this end the provisions of this Act are severable.

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN

2006 (SECOND) Regular Session

Date: 7/3/06

VOTING SHEET

Bill No. 293(FC)

Resolution No. _____


Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
AGUON, Frank B., Jr.					EA
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert					EA
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.					EA
WON PAT, Judith T.	✓				

TOTAL

11 0 0 0 3

CERTIFIED TRUE AND CORRECT:


Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



I Mina' Bente Ocho Na Liheslaturan Guahan
The 28th Guam Legislature

155 Hesler Place
Hagatna, Guam 96910
Office (671) 472-3407 • Fax (671) 472-3510

Speaker Mark Forbes

Speaker Mark Forbes
I Mina' Bente Ocho Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

The Committee on General & Omnibus Matters to which Bill No. 293 was referred, wishes to report its findings and recommendations **TO DO PASS BILL No. 293 (EC)**: "An Act To Amend Sections 8201(M), 8206, 8206.1, And 8207 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotated, Relative To Clarifying Eligibility For Membership In The Defined Contribution Retirement System And Suspending Annuities Of Defined Benefit Plan Retirees Enrolled In The Defined Contribution Retirement System; To Amend Sections 8210 And 8211 To Clarify Vesting And Distribution Provisions; To Amend Section 8216 To Authorize Assignments Pursuant To Court Ordered Child Support And Alimony Payments; And To Amend Section 8217 To Clarify That Administrative Fees, Charges, And Forfeitures May Be Applied To Offset The Defined Contribution Retirement System Start Up Costs".

Transmitted herewith for your consideration and action is our committee report on the above subject matter.

The voting record is as follows:

 5 TO PASS
 0 NOT TO PASS
 0 TO REPORT OUT ONLY
 0 ABSTAIN
 0 INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.


MARK FORBES

Attachments

MEMORANDUM

TO: Committee Members

FROM: Chairman

SUBJECT: Committee Report- BILL No. 293 (EC): "An Act To Amend Sections 8201(M), 8206, 8206.1, And 8207 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotated, Relative To Clarifying Eligibility For Membership In The Defined Contribution Retirement System And Suspending Annuities Of Defined Benefit Plan Retirees Enrolled In The Defined Contribution Retirement System; To Amend Sections 8210 And 8211 To Clarify Vesting And Distribution Provisions; To Amend Section 8216 To Authorize Assignments Pursuant To Court Ordered Child Support And Alimony Payments; And To Amend Section 8217 To Clarify That Administrative Fees, Charges, And Forfeitures May Be Applied To Offset The Defined Contribution Retirement System Start Up Costs".

Transmitted herewith for your information and action is the report on Bill No. 293 (EC) from the Committee on General and Omnibus Matters.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. BILL No. 293 (EC)
4. Public Hearing Sign-In Sheet
5. Fiscal Note/ Fiscal Note Waiver
6. Notice of Public Hearing

Please take the appropriate action on the voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

MARK FORBES




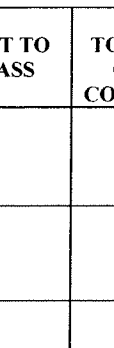

Attachments

COMMITTEE ON GENERAL AND OMNIBUS MATTERS

I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
155 HESLER PLACE, HAGÅTNA, GUAM 96910

An Act To Amend Sections 8201(M), 8206, 8206.1, And 8207 Of Article 2, Chapter 8,
Title 4 Of The Guam Code Annotated, Relative To Clarifying Eligibility For
Membership In The Defined Contribution Retirement System And Suspending Annuities
Of Defined Benefit Plan Retirees Enrolled In The Defined Contribution Retirement
System; To Amend Sections 8210 And 8211 To Clarify Vesting And Distribution
Provisions; To Amend Section 8216 To Authorize Assignments Pursuant To Court
Ordered Child Support And Alimony Payments; And To Amend Section 8217 To Clarify
That Administrative Fees, Charges, And Forfeitures May Be Applied To Offset The
Defined Contribution Retirement System Start Up Costs.

VOTING SHEET

	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT OF COMMITTEE	ABSTAIN	INACTIVE FILE
Mark Forbes, Chairman		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Edward J.B. Calvo		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lawrence F. Kasperbauer, Ph.D.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jesse A. Lujan		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ray Tenorio		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael Cruz, M.D.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lou A. Leon Guerrero		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judith T. Won Pat		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Benjamin J.F. Cruz		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



I Mina' Bente Ocho Na Liheslaturan Guahan
The 28th Guam Legislature

155 Hesler Place
Hagatna, Guam 96910
Office (671) 472-3407 • Fax (671) 472-3510

Speaker Mark Forbes

WAIVER OF FISCAL NOTE

In accordance with §9105 Title 2 GCA, I hereby certify that prompt committee action on Bill 293 is necessary to the proper conduct of legislative business. Therefore, I am waiving requirement of a fiscal note on Bill 293.

MARK FORBES
Speaker and Chairman,
Committee on General and Omnibus Matters

**I MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
COMMITTEE ON GENERAL & OMNIBUS MATTERS
SPEAKER MARK FORBES, CHAIRMAN**

**COMMITTEE REPORT
ON
BILL NO. 293 (EC)**

AN ACT TO AMEND SECTIONS 8201(M), 8206, 8206.1, AND 8207 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND SECTIONS 8210 AND 8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND SECTION 8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; AND TO AMEND SECTION 8217 TO CLARIFY THAT ADMINISTRATIVE FEES, CHARGES, AND FORFEITURES MAY BE APPLIED TO OFFSET THE DEFINED CONTRIBUTION RETIREMENT SYSTEM START UP COSTS.

I. OVERVIEW

The Committee on General and Omnibus Matters held a public hearing at 9:00 a.m. on May 03, 2006 in the Session Hall, I Liheslaturan Guåhan. Public notice was given to all media (see facsimile confirmation page) on April 26 and May 01, 2006.

Senators present at the public hearing were:

Speaker Mark Forbes, Chairman
Senator Benjamin J.F. Cruz, Member
Senator Robert Klitzkie

II. SUMMARY OF TESTIMONY

Individuals that appeared before the Committee to present oral and written testimony on the bill were as follows:

Mr. Joe T. San Agustin, Chairman, Guam Retirement Fund Board, oral and written testimony in support of Bill No. 293. Mr. San Agustin said he is in support of Bill 293, 295 and 296 and said in compliance with a court order the Retirement Fund must be established as a public corporation. He then read his written testimony not related to the Bill No. 293, but insist that his comments be made as public record. (see attached testimony not related to Bill 293).

Ms. Paula Blas, Acting Director, Guam Retirement Fund, oral and written testimony in support of Bill No. 293. Ms. Blas read her written testimony. She pointed out issues relating to the DCRS since its inception. She said Bill 293 will clarify the eligibility and the participation in the DCRS as of October 1, 2005. She states since the adoption of the plan in 1995 the federal statutes have changed in regards to the management and administration of defined contribution plans. Legislation such as the Economic Growth and Tax Relief Reconciliation Act of 2001, Uniformed Services Employment and Reemployment Rights Act, Small Business Job Protection Act, and the Taxpayer Relief Act have all required that qualified plans be amended to include provisions addresses in the federal mandates (see attached testimony).

Mr. Vince Camacho, Regional Vice President, Great-West Retirement Services, oral testimony in support of Bill No. 293. Mr. Camacho discussed issues as it pertains to the current participation and eligibility of the DCRS. He said there are two categories of individuals who are eligible to participate in the DCRS plan they include; 1) those with no Government of Guam work service and 2) those who have been under the Defined Benefit Plan and refunded their contributions. The primary concern is that there are government employees who could not participate in either retirement plans offered by the government of Guam. Additionally, federal statues that govern Social Security do not allow or penalize these employees for being part of the government of Guam retirement plans. Bill 293 will address the loopholes in the current statute and allow all government employees to be covered under the government retirement system.

Mr. Vicente Pangelinan, private citizen, oral testimony in support of Bill 293. Mr. Pangelinan said he is a member of the DC plan. He said the DCRS statue limits the portability of the employer contributions although he is a vested member owning the government's contribution. Bill 293 will remove this limitation and adhere to federal statues and issues on portability.

Additionally, he said he supports bills 295 and 296 as it relates to relaxing investments and opportunities to maximize the Retirement Fund's rate of return.

FINDINGS AND RECOMMENDATION

The Committee on General and Omnibus Matters finds that Bill 293 updates the Government of Guam Defined Contribution Retirement Systems (DCRS) to adhere to federal mandates such as the Economic Growth and Tax Relief Reconciliation Act of 2001, Uniformed Services Employment and Reemployment Rights Act, Small Business Job Protection Act, and the Taxpayer Relief Act.

The Committee further finds that Bill 293 clarifies the use of forfeitures to pay for the DCRS administrative expenses and start-up costs.

And finally, Bill 293 addresses provisions in the Plan that needed further clarification such as (1) participation and eligibility; and (2) the portability of government contributions for vested members.

Accordingly, the Committee on General and Omnibus Matters to which BILL No. 293 (EC) was referred does hereby submit its findings and recommendations to I Mina' Bente Ocho Na Liheslaturan Guåhan **TO DO PASS BILL No. 293 (EC)**, "An Act To Amend Sections 8201(M), 8206, 8206.1, And 8207 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotated, Relative To Clarifying Eligibility For Membership In The Defined Contribution Retirement System And Suspending Annuities Of Defined Benefit Plan Retirees Enrolled In The Defined Contribution Retirement System; To Amend Sections 8210 And 8211 To Clarify Vesting And Distribution Provisions; To Amend Section 8216 To Authorize Assignments Pursuant To Court Ordered Child Support And Alimony Payments; And To Amend Section 8217 To Clarify That Administrative Fees, Charges, And Forfeitures May Be Applied To Offset The Defined Contribution Retirement System Start Up Costs."

MR. ROY YUE
6/04/06

3rd
6/13/06

COW
6/13/06

**MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session**

Bill No 297 (EC)

Introduced by:

Mark Forbes

AN ACT TO AMEND SECTIONS 8201(m), 8206, 8206.1, AND 8207 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND SECTIONS 8210 AND 8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND SECTION 8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; AND TO AMEND SECTION 8217 TO CLARIFY THAT ADMINISTRATIVE FEES, CHARGES, AND FORFEITURES MAY BE APPLIED TO OFFSET THE DEFINED CONTRIBUTION RETIREMENT SYSTEM START UP COSTS.

-
- 1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
 - 2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
 - 3 that, effective as of October 1, 2005, all new GovGuam employees, even those whose

1 employment is purely temporary, seasonal, intermittent or part-time shall participate
2 in the Defined Contribution Retirement System, rather than having the option to reject
3 membership, in which case the employer and employee would contribute to Social
4 Security. *I Liheslaturan Guåhan* further finds that to fully implement the policy of
5 minimizing "double dipping" by GovGuam retirees, Defined Benefit Plan annuities
6 must be suspended upon re-employment by GovGuam, even if a retire participates in
7 the Defined Contribution Retirement System. *I Liheslaturan Guåhan* further finds
8 that the Defined Contribution Retirement statute should be amended to authorize
9 assignments pursuant to Court-ordered child support and alimony payments and to
10 clarify that administrative fees, charges and forfeitures may be applied to offset
11 Defined Contribution Retirement System start up costs, as noted by the Public
12 Auditor's Report on Compliance and Internal Control Over Financial Reporting Based
13 on an Audit of Financial Statements Performed in Accordance with *Government*
14 *Auditing Standards*, Finding No. 202-5, dated September 30, 2003 and 2002.

15 **SECTION 2. Section 8201(m) of Article 2, Chapter 8, Title 4 of the**
16 **Guam Code Annotated is hereby amended to read as follows:**

17 (m) *Member of the Defined Contribution Retirement System* means any
18 person who is eligible to participate and participates in the Defined
19 Contribution Retirement System in accordance with Sections 8206, 8206.1 and
20 8207 ~~becomes employed after September 30, 1995 by an employer, or who has~~
21 ~~elected to transfer from the existing retirement system to the Defined~~
22 ~~Contribution System in accordance with this article; provided that any person~~
23 ~~whose employment by an employer is purely temporary, seasonal, intermittent~~
24 ~~or part time shall have the option of accepting or rejecting membership and~~
25 ~~shall become a member only upon submission of a written request to the Board~~
26 ~~for membership.~~

1 **SECTION 3. Section 8206 of Article 2, Chapter 8, Title 4 of the Guam**
2 **Code Annotated is hereby amended to read as follows:**

3 **§8206. Participation in Government of Guam Defined Contribution**
4 **System; limiting participation in existing retirement system.**

5 (a) Beginning October 1, 1995, the Government of Guam Defined
6 Contribution System shall be the single retirement program for all new
7 employees whose employment commences on or after that date. No additional
8 new employees may be admitted to the existing retirement system, except as
9 provided from time to time in the existing retirement system. Members of the
10 existing retirement system whose employment continues beyond September 30,
11 1995, shall continue to contribute and participate in the existing retirement
12 system without change in provisions or benefits, except as provided from time
13 to time in the existing retirement system.

14 (b) Any employee who leaves government service after September 30,
15 1995 who is later reemployed by the Government of Guam shall become a
16 member of ~~be eligible for membership in~~ the Defined Contribution Retirement
17 System except persons who are ineligible for membership under §8206.1;
18 provided, that he or she shall be entitled to readmission to the existing
19 retirement system in which he or she was originally a member, if such
20 employee has not withdrawn his or her contributions from the existing
21 retirement system. However, if such employee has withdrawn his or her
22 ~~contributions from the existing retirement system, the readmission to the~~
23 existing retirement system shall not be permitted and the employee will be
24 entitled only to membership in the Government of Guam Defined Contribution
25 System in accordance with this Article.

1 (c) Any employee who retires after September 30, 1995, and who later
2 becomes re-employed by the Government of Guam shall be entitled to re-
3 admission to the existing retirement system and subject to suspension of annuity
4 requirements pursuant to 4 GCA §8121, as amended. If such re-employed
5 retiree is prohibited from re-admission to the existing retirement system and
6 becomes a member of the Defined Contribution Retirement System, his or her
7 annuity under the existing plan shall be suspended in the same manner and to
8 the same extent applicable to similarly situated employees pursuant to 4 GCA
9 §8121, as amended.

10 (d) Any employee whose employment commences after October 1,
11 2005 and whose employment is purely temporary, seasonal, intermittent or part-
12 time shall be a member in the Defined Contribution Retirement System unless
13 the employee is eligible for re-admission to the existing retirement system.

14 **SECTION 4. Section 8206.1 of Article 2, Chapter 8, Title 4 of the Guam**
15 **Code Annotated is hereby amended to read as follows:**

16 **§8206.1. Same: Ineligible Persons.** The following persons employees shall
17 not be eligible for membership:

- 18 (a) Persons whose services are compensated on a fee basis.
19 (b) Independent contractors.
20 (c) Persons whose employment is for a specific project.
21 (d) Persons who are employed in the Senior Citizens Community
22 Employment Program.

23 **SECTION 5. Section 8207 of Article 2, Chapter 8, Title 4 of the Guam**
24 **Code Annotated is hereby amended to read as follows:**

25 **§8207 Voluntary Participation in System.**

1 (a) Any member with less than twenty (20) years service credit, recognized
2 under the existing system, may, upon written election, voluntarily elect
3 membership in the Government of Guam Defined Contribution System, on a
4 prospective basis, on or after October 1, 1995. Said member of the existing
5 retirement system, upon election to withdraw that person's contribution plus
6 interest, must then deposit such funds into the Government of Guam Defined
7 Contribution Retirement System; and as a result thereof, such member's years
8 of service credit in the existing system shall be applied towards the years of
9 employment service for vesting purposes under §8210 of this Article, and no
10 further benefits will be payable to such member under the existing retirement
11 system.

12 (b) Members electing to transfer to the Defined Contribution Retirement
13 System will have their transfers effective at the end of the first pay period
14 following the month of transfer. Employees will have sixty-five (65) months
15 after enactment of this legislation, and between March 1 and May 31 of every
16 year, beginning in the year 2002, in which to elect to transfer to the Defined
17 Contribution Retirement System. After having made such election, the
18 employee may not change such election or again become a member of the
19 existing retirement system. Any member who does not select one (1) option or
20 the other at the end of the sixty-five (65) month period, except as provided for
21 in this Section, shall be deemed to have irrevocably elected to be a member in
22 the existing system.

23 (c) Notwithstanding (a) and (b) above, for employment commencing prior to
24 October 1, 2005, any employee whose employment is purely temporary,
25 seasonal, intermittent or part-time shall have the option of accepting or rejecting
26 membership and shall become a member only upon submission of a written

1 request to the Board for membership; such option to expire as of October 1,
2 2005 at which time membership in the Defined Contribution Retirement System
3 shall be mandatory unless the employee is eligible for readmission to the
4 existing retirement system.

5 **SECTION 6. The heading of Section 8210 of Article 2, Chapter 8, Title**
6 **4 of the Guam Code Annotated is hereby amended to read as follows:**

7 **§8210. Termination of Membership. Vesting Schedule.**

8 **SECTION 7. Section 8211 of Article 2, Chapter 8, Title 4 of the Guam**
9 **Code Annotated is hereby amended to read as follows:**

10 **§8211. Distributions Following Termination of Employment.** (a) Normal
11 and Early Retirement. At any time after a member reaches the early retirement
12 age of fifty-five (55) years and has completed five (5) years of employment for
13 vesting purposes, or reaches the normal retirement age of sixty-five (65) years,
14 that person may elect to receive retirement benefits by notifying the Board, or
15 its designee, in writing of such intention not less than sixty (60) days prior to
16 the effective date of retirement. Retirement payments shall commence as soon
17 as practicable after retirement in accordance with the Defined Contribution
18 Retirement System Plan Document.

19 (b) ~~¶In the event of disability:—A,~~ a member may elect to receive a
20 distribution of the member's vested account balances as soon as practicable after
21 termination of employment due to disability as defined in the Defined
22 Contribution Retirement System Plan Document; ~~provided, that any distribution~~
23 of the member's vested account balances will render the member ineligible to
24 receive any pre-retirement benefits provided under any long-term disability
25 insurance policy issued pursuant to § 8213 or Article 4 of this Title. In the
26 event of disability after termination of employment, a member may elect to

1 receive a distribution of that member's vested account as soon as practicable
2 after certification of said disability in accordance with the Defined Contribution
3 Retirement System Plan Document.

4 (c) Death. In the event of a member's death, distribution of the member's
5 vested account balances to the member's beneficiaries shall be made as soon as
6 practicable after death in accordance with the Defined Contribution Retirement
7 System Plan Document.

8 (d) Other Termination of Employment. In the event of termination of
9 employment for reasons other than retirement, disability or death, a member
10 may elect to receive a distribution of the member's vested account balances as
11 soon as practicable after termination of employment.

12 **SECTION 8. Section 8216 of Article 2, Chapter 8, Title 4 of the Guam**
13 **Code Annotated, is hereby amended retroactively to the date of any applicable**
14 **court orders, to read as follows:**

15 **§8216. Right to benefits not subject to execution, etc.** The right of any
16 person to a benefit provided for in this Article shall not be subjected to
17 execution, attachment, garnishment, the operation of bankruptcy or insolvency
18 laws, or other process whatsoever, nor shall any assignment thereof be
19 enforceable in any court, except court orders that relate to the provision of child
20 support, alimony payments, or marital property rights to a spouse, child or other
21 tax dependent issued pursuant to Guam's or a state's domestic relations law.

22 ~~**SECTION 9. Section 8217 of Article 2, Chapter 8, Title 4 of the Guam**~~
23 **Code Annotated is hereby amended retroactively to October 1, 2001, to read as**
24 **follows:**

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 293

B.J. Cruz

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

To add a new section to the bill to read:

A new subsection (c) is added to Title 5 G.C.A. 40109 to read:

(c) A village mayor or vice-mayor who has retired from the government of Guam who is eligible to receive retirement benefits from the government of Guam Retirement Fund, under either the Defined Benefit Plan created by Title 4 G.C.A. Chapter 8, Article One, or the Defined Contribution System created by Title 4 G.C.A. Chapter 8, Article Two, shall not relinquish, forfeit or have such benefits suspended during the periods said official holds his respective office; provided, however, that such mayor or vice-mayor, if he is a member of the Defined Benefit Plan, shall not be deemed an active member of ~~the that~~ plan of the retirement fund for purpose of his service in that office, and shall be eligible to contribute to the Defined Contribution ~~Plan~~ System.

(Below only for Clerk of Legislature's use and processing)

Date June 13, 2006

Floor Amendment No. 1 of a total of _____ changes on above Bill.

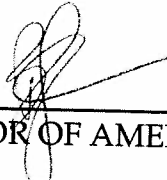
Votes For Amendment: _____ Votes Against Amendment: _____

AMENDMENT PASSED: _____

Amendment Failed: _____

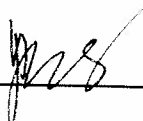
Amendment Withdrawn: _____

APPROVED AS TO FORM PASSED



AUTHOR OF AMENDMENT

Concur *(initial)*

 _____

1 §8217. Administrative Expenses. (a) Fees Or Charges Paid By
2 Participants. The Board of Trustees may provide for administrative fees or
3 charges to be paid by participants in the following manner:

4 (1) For fiscal years beginning October 1, 1995, and October 1,
5 1996, the Board of Trustees may assess an amount up to four percent (4%)
6 of the employer and member contributions.

7 (2) For fiscal years beginning October 1, 1997, and thereafter, the
8 Board of Trustees may assess an amount up to two percent (2%) of the
9 employer and member contributions.

10 (b) Any amounts collected under §8217(a), but not needed for administrative
11 expenses, including start-up costs of the plan must be allocated to member
12 accounts.

13 (c) Use of Forfeitures. For fiscal years beginning October 1, 2001 and
14 thereafter, the Board of Trustees shall use the aggregate amount of forfeitures
15 released from the suspense account described in 8210(e) at the end of each
16 fiscal year to pay for the plan's administrative expenses, including start-up costs
17 of the plan, and to reduce administrative fees or charges paid by participants
18 under §8217(a) allowed by this Section.

19 ~~SECTION 10.~~ SECTION 10. Effective Date. Upon enactment, this provisions of this
20 Chapter shall take effect retroactively as of October 1, 2005, except as expressly
21 provided to take effect earlier.

22 ~~SECTION 11.~~ SECTION 11. Severability. If any provision of this Act or its application to
23 any person or circumstances is held invalid, the invalidity shall not affect other
24 provisions or applications of this Act which can be given effect without the invalid
25 provision or application, and to this end the provisions of this Act are severable.

Clerk of Legislature

Passed FA No. _____
Date: _____ Time: _____
Speaker

____ Ass't. Amend. Clerk
____ Engrossment Staff

AGENDA
COMMITTEE ON GENERAL & OMNIBUS MATTERS
EXECUTIVE COMMITTEE

Public Hearing
Wednesday, May 3, 2006, 9:00 a.m.
Session Hall

The following Appointments & Bills will be heard by the Committee on General & Omnibus Matters;

Appointments:

Governor's appointment of Jay L. Lather to serve as a member of the Guam Land Use Commission

Governor's appointment of Lisa P. Arriola to serve as a member of the Guam Land Use Commission

Governor's appointment of Lawrence S. Rivera to serve as a member of the Guam Land Use Commission

Governor's appointment of Keith L. Camacho to serve as a member of the Guam Historic Preservation Review Board

Bills:

Bill No. 259 (EC)– by R. Klitzkie

An Act To Request The United States Congress To Add A New Subsection (C) To Section 7 Of The Organic Act Of Guam To Patriate The Organic Act And To Amend 3 Gca Ch.17 Art. 4 To Provide The Means To Amend The Patriated Organic Act.

Bill No. 278 (EC)– by Mark Forbes

An Act To Create A New Zone And To Zone Lot No. 10155-6 And Lot No. 10155-7 Municipality Of Dededo.

Bill No. 293 (EC) – Mark Forbes

An Act To Amend Sections 8201(M), 8206, 8206.1, And 8207 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotated, Relative To Clarifying Eligibility For Membership In The Defined Contribution Retirement System And Suspending Annuities Of Defined Benefit Plan Retirees Enrolled In The Defined Contribution Retirement System; To Amend Sections 8210 And 8211 To Clarify Vesting And Distribution Provisions; To Amend Section 8216 To Authorize Assignments Pursuant To Court Ordered Child Support And Alimony Payments; And To Amend Section 8217 To Clarify That Administrative Fees, Charges, And Forfeitures May Be Applied To Offset The Defined Contribution Retirement System Start Up Costs.

Bill No. 295 (EC) – Mark Forbes

An Act To Amend Section 8158, Article 1, Chapter 8, Title 4 Of The Guam Code Annotated Relative To Authorizing The Board Of Trustees To Invest Up To Thirty Percent (30%) Of Retirement Fund Assets At Cost In Investment Funds Such As Investment Trusts, Mutual Funds, Common Trust Funds And Commingled Funds.

Bill No. 296 (EC) – Mark Forbes

An Act To Amend Section 8157 Of Article 1, Chapter 8, Title 4 Of The Guam Code Annotated, Relative To Permitting Limited Investments In Companies Lacking Multi-Year Track Records For Profit And Dividends So As To Allow The Defined Benefit Plan To Own Stock In Multi-Sized And Growth Companies In Rough Proportion To The Weight They Collectively Represent In The Overall Market.

Transmission Report

Date/Time
Local ID
Local Name
Company Logo

4-26-06; 3:04PM
4723510
Speakers Office

This document was confirmed.
(reduced sample and details below)
Document Size Letter-S



I Mina' Bente Ocho Na Liheslaturan Guahan
The 28th Guam Legislature

155 Hesler Place
Hagatna, Guam 96910
Office (671) 472-3407 • Fax (671) 472-3510

Speaker Mark Forbes

April 26, 2006

MEMORANDUM

TO: AM Media:
Pacific Daily News; 477-3079 KUAM; 637-9870
Marianas Variety; 648-2007 K-57/Power 98; 477-3982
K-Stereo; 477-6411 Hit Radio 100; 472-7663
Glimpses-Gu. Business 649-8883 Adventist World Radio 565-2983
Harvest Family Radio 477-7136 KPRG 734-2958
KISH 477-6411 Rlene Live
ABC 14 637-8819

FROM: Speaker
Chairman, Committee on General & Omnibus Matters

SUBJECT: Notice of Public Hearing- Wednesday May 3, 2006

Please be informed that I have scheduled a public hearing on Wednesday, May 3, 2006, 9:00 a.m. at the Session Hall, Temporary Legislative Building, on the following appointments & bills:

The following Appointments & Bills will be heard by the Committee on General & Omnibus Matters:

Appointments:

Governor's appointment of Jay L. Lacher to serve as a member of the Guam Land Use Commission
Governor's appointment of Lisa P. Arriola to serve as a member of the Guam Land Use Commission
Governor's appointment of Lawrence S. Rivers to serve as a member of the Guam Land Use Commission
Governor's appointment of Keith L. Carnacho to serve as a member of the Guam Historic Preservation Review Board

Bills:

Bill No. 259 (EC)-by R. Kikukie
An Act To Request The United States Congress To Add A New Subsection (C) To Section 7 Of The Organic Act Of Guam To Patriate The Organic Act And To Amend 5 Gca Ch.17 Art. 4 To Provide The Means To Amend The Patriated Organic Act.
Bill No. 278 (EC)-by Mark Forbes
An Act To Create A New Zone And To Zone Lot No. 10155-6 And Lot No. 10155-7 Municipality Of Dededo.

Total Pages Scanned : 2 Total Pages Confirmed : 2

No.	Doc	Remote Station	Start Time	Duration	Pages	Mode	Comments	Results
1	902	4727663	4-26-06; 3:03PM	31"	2 / 2	EC		CP 28.8

otes :

C: Error Correct	RE: Resend	PD: Polled by Remote	MB: Receive to Mailbox
C: Broadcast Send	MP: Multi-Poll	PG: Polling a Remote	PI: Power Interruption
P: Completed	RM: Receive to Memory	DR: Document Removed	TM: Terminated by user
S: Host Scan	HP: Host Print	FO: Forced Output	WT: Waiting Transfer
F: Host Fax	HR: Host Receive	FM: Forward Mailbox Doc.	WS: Waiting Send

Transmission Report

Date/Time
Local ID
Local Name
Company Logo

4-26-06; 2:37PM
4723510
Speakers Office

This document was confirmed.
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Document Size Letter-S



I Mina' Bente Ocho Na Liheslaturan Guahan
The 28th Guam Legislature

155 Hesler Place
Hagatna, Guam 96910
Office (671) 472-3407 • Fax (671) 472-3510

Speaker Mark Forbes

Facsimile

Date: April 26, 2006 **Time:**
Fax No.: 477-3079 **No. of Pages:**
To: PDN Government Meetings
From: The Office of Speaker Mark Forbes
Re: Public Hearing Notice- Wednesday, May 3, 2006
Note: We would like to reserve space in the government meeting notice section of the Pacific Daily News for Thursday, April 27, Friday, April 28, Sunday, April 30, Monday, May 01, Tuesday, May 02, and Wednesday, May 03, 2006 to read:

*Committee on General & Omnibus Matters: Public Hearing, Wednesday, May 3, 2006, 9:00 a.m., Session Hall, Temporary Legislative Building, Hagatna, Guam. The following Appointments & Bills will be heard;

Appointments:

Governor's appointment of Jay L. Lather to serve as a member of the Guam Land Use Commission

Governor's appointment of Lisa P. Arriola to serve as a member of the Guam Land Use Commission

Governor's appointment of Lawrence S. Rivera to serve as a member of the Guam Land Use Commission

Governor's appointment of Keith L. Camacho to serve as a member of the Guam Historic Preservation Review Board

Bills:

Bill No. 259 (EC)- by R. Klitzkie
An Act To Request The United States Congress To Add A New Subsection (C) To Section 7 Of The Organic Act Of Guam To Patriate The Organic Act And To Amend 3 Gea Ch.17 Art. 4 To Provide The Means To Amend The Patriated Organic Act.

Total Pages Scanned : 2 Total Pages Confirmed : 2

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Notes :

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CP: Completed	RM: Receive to Memory	DR: Document Removed	TM: Terminated by user
HS: Host Scan	HP: Host Print	FO: Forced Output	WT: Waiting Transfer
HF: Host Fax	HR: Host Receive	FM: Forward Mailbox Doc.	WS: Waiting Send

Activity Report

Date/Time
Local ID
Local Name
Company Logo

4-26-06; 2:32PM
4723510
Speakers Office

** Calling **

No.	Doc	Remote Station	Start Time	Duration	Pages	Mode	Comments	Results
1	802	executive director	4-20-06; 3:25PM	20"	1/ 1	EC	BC	CP 28.8
2	802	clerks	3:26PM	22"	1/ 1	EC	BC	CP 28.8
3	802	sergeant at arms	3:27PM	36"	1/ 1	EC	BC	CP 9600
4	804	sen. jesse lujan	3:47PM	1'46"	2/ 2	EC		CP 9600
5			4-24-06; 9:38AM					PI
6	845	sen. joanne brown	11:13AM	1'46"	2/ 2	EC		CP 9600
7	847	executive director	11:15AM	28"	2/ 2	EC	BC	CP 28.8
8	847	clerks	11:15AM	34"	2/ 2	EC	BC	CP 28.8
9	847	sergeant at arms	11:16AM	1'02"	2/ 2	EC	BC	CP 9600
10	848	executive director	11:18AM	30"	2/ 2	EC	BC	CP 28.8
11	848	sergeant at arms	11:18AM	1'05"	2/ 2	EC	BC	CP 9600
12	856	executive director	2:29PM	20"	1/ 1	EC	BC	CP 28.8
13	856	clerks	2:30PM	25"	1/ 1	EC	BC	CP 28.8
14	856	sergeant at arms	2:31PM	37"	1/ 1	EC	BC	CP 9600
15	858	GUAM LEGISLATURE	2:42PM	19"	1/ 1	EC		CP 28.8
16	861	sen. joanne brown	4-25-06; 10:10AM	55"	1/ 1	EC		CP 9600
17	864	4771173	10:17AM	2'04"	8/ 8	EC		CP 28.8
18	866	4771173	10:20AM	1'15"	5/ 5	EC		CP 28.8
19	867	4771173	10:21AM	53"	4/ 4	EC		CP 28.8
20	877	4771173	3:29PM	1'01"	4/ 4	EC		CP 28.8
21	886	pdn	4-26-06; 2:06PM	40"	2/ 2	EC	BC	CP 14.4
22	886	marianas variety	2:07PM	41"	2/ 2	EC	BC	CP 14.4
23	886	k stereo	2:08PM	40"	-/ 2		BC	0510
24	886	glimpses	2:09PM	37"	2/ 2	EC	BC	CP 26.4
25	886	harvest radio	2:10PM	22"	2/ 2	EC	BC	CP 28.8
26	886	kuam	2:10PM	33"	2/ 2	EC	BC	CP 26.4
27	886	power ninty eight	2:11PM	39"	2/ 2	EC	BC	CP 14.4
28	886	hit radio	2:12PM	22"	2/ 2	EC	BC	CP 28.8
29	886	adventist radio	2:13PM	50"	2/ 2	EC	BC	CP 9600
30	886	kprg	2:14PM	1'08"	2/ 2	G3	BC	CP 9600
31	886	rlene liive	2:16PM	42"	2/ 2	EC	BC	CP 14.4
32	886	abc fourteen	2:17PM	22"	2/ 2	EC	BC	CP 28.8
33	888	sen. frank aguon	2:18PM	31"	2/ 2	EC	BC	CP 28.8
34	888	sen. joanne brown	2:18PM	1'38"	2/ 2	EC	BC	CP 9600
35	888	sen. eddie calvo	2:20PM	41"	2/ 2	EC	BC	CP 28.8
36	888	sen. b.j. cruz	2:21PM	40"	2/ 2	EC	BC	CP 31.2
37	888	sen. mike cruz	2:22PM	30"	2/ 2	EC	BC	CP 28.8
38	888	sen. kasperbauer	2:23PM	60"	2/ 2	EC	BC	CP 14.4
39	888	sen. klitzie	2:25PM	1'14"	2/ 2	G3	BC	CP 14.4
40	888	sen. jesse lujan	2:26PM	1'39"	2/ 2	EC	BC	CP 9600
41	888	sen. palacios	2:29PM	37"	2/ 2	EC	BC	CP 28.8
42	888	sen. respicio	2:30PM	31"	2/ 2	EC	BC	CP 28.8

Total 85

** Called **

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3	835	671 477 3184	11:22AM	28"	2	EC		CP 26.4
4	837	671	2:30PM	31"	1	EC		CP 9600
5	839	7344130	3:47PM	1'31"	3	EC		CP 9600
6	843	671 632 8116	4-24-06; 10:35AM	46"	1	EC		CP 9600
7	852	UOG EMSS	12:37PM	1'09"	4	EC		CP 26.4
8	854	6490712	2:06PM	21"	1	EC		CP 26.4
9	873	+6716482787	4-25-06; 11:39AM	51"	3	EC		CP 21.6
10	875	+6716482787	2:20PM	57"	3	EC		CP 21.6
11	880	7340317	4-26-06; 10:54AM	1'02"	1	EC		CP 9600
12	882	6378609	11:02AM	40"	1	EC		CP 14.4

Total 22

Notes :

EC: Error Correct	RE: Resend	PD: Polled by Remote	MB: Receive to Mailbox
3C: Broadcast Send	MP: Multi-Poll	PG: Polling a Remote	PI: Power Interruption
CP: Completed	RM: Receive to Memory	DR: Document Removed	TM: Terminated by user
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HF: Host Fax	HR: Host Receive	FM: Forward Mailbox Doc.	WS: Waiting Send



I Mina' Bente Ocho Na Liheslaturan Guahan
The 28th Guam Legislature

155 Hesler Place
Hagatna, Guam 96910
Office (671) 472-3407 • Fax (671) 472-3510

Speaker Mark Forbes

Facsimile

Date: May 01, 2006 **Time:**
Fax No.: 477-3079 **No. of Pages:**
To: PDN Government Meetings
From: The Office of Speaker Mark Forbes
Re: **Public Hearing Notice- Wednesday, May 3, 2006**
Note: **We would like to reserve space in the government meeting notice section of the Pacific Daily News for Tuesday, May 02, and Wednesday, May 03, 2006 to read:**

“Committee on General & Omnibus Matters: Public Hearing, Wednesday, May 3, 2006, 9:00 a.m., Session Hall, Temporary Legislative Building, Hagatña, Guam. The following Appointments & Bills will be heard;

Appointments:

Governor’s appointment of Jay L. Lather to serve as a member of the Guam Land Use Commission

Governor’s appointment of Lisa P. Arriola to serve as a member of the Guam Land Use Commission

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Transmission Report

Date/Time
 Local ID
 Local Name
 Company Logo

5- 1-06; 9:39AM
 4723510
 Speakers Office

This document was confirmed.
 (reduced sample and details below)
 Document Size 5.5x8.5"

Total Pages Scanned : 2 Total Pages Confirmed : 2

No.	Doc	Remote Station	Start Time	Duration	Pages	Mode	Comments	Results
1	967	4773079	5- 1-06; 9:38AM	45"	2 / 2	EC		CP 14.4

Notes :

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I Mina' Bente Ocho Na Liheslaturan Guahan
The 28th Guam Legislature

155 Hesler Place
Hagatna, Guam 96910
Office (671) 472-3407 • Fax (671) 472-3510

Speaker Mark Forbes

May 01, 2006

MEMORANDUM

TO: **All Media:**
Pacific Daily News; 477-3079 KUAM; 637-9870
Marianas Variety; 648-2007 K-57/Power 98; 477-3982
K-Stereo; 477-6411 Hit Radio 100; 472-7663
Glimpses-Gu. Business 649-8883 Adventist World Radio 565-2983
Harvest Family Radio 477-7136 KPRG 734-2958
KISH 477-6411 Rlene Live
ABC 14 637-8819

FROM: Speaker 
Chairman, Committee on General & Omnibus Matters

SUBJECT: Notice of Public Hearing- **Wednesday May 3, 2006**

Please be informed that I have scheduled a public hearing on Wednesday, May 3, 2006, 9:00 a.m. at the Session Hall, Temporary Legislative Building, on the following appointments & bills:

The following Appointments & Bills will be heard by the Committee on General & Omnibus Matters:

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Bill No. 278 (EC)– by Mark Forbes
An Act To Create A New Zone And To Zone Lot No. 10155-6 And Lot No. 10155-7 Municipality Of Dededo.

Activity Report

Date/Time
Local ID
Local Name
Company Logo

5- 1-06;11:31AM
4723510
Speakers Office

** Calling **

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3	969	marianas variety	9:41AM	60"	2 / 2	EC	BC	CP 14.4
4	969	k stereo	9:42AM	39"	2 / 2	EC	BC	CP 28.8
5	969	glimpses	9:43AM	43"	2 / 2	EC	BC	CP 26.4
6	969	harvest radio	9:44AM	33"	2 / 2	EC	BC	CP 26.4
7	969	kuam	9:45AM	42"	2 / 2	EC	BC	CP 26.4
8	969	power ninty eight	9:46AM	57"	2 / 2	EC	BC	CP 14.4
9	969	hit radio	9:47AM	31"	2 / 2	EC	BC	CP 28.8
10	969	adventist radio	9:48AM	1'18"	2 / 2	EC	BC	CP 9600
11	969	kprg	9:50AM	2'01"	2 / 2	G3	BC	CP 9600
12	969	rlene live	9:52AM	1'01"	2 / 2	EC	BC	CP 14.4
13	969	abc fourteen	9:53AM	31"	2 / 2	EC	BC	CP 28.8
14	972	sen. frank aguon	9:54AM	32"	2 / 2	EC	BC	CP 28.8
15	972	sen. joanne brown	9:55AM	1'38"	2 / 2	EC	BC	CP 9600
16	972	sen. eddie calvo	9:57AM	34"	2 / 2	EC	BC	CP 28.8
17	972	sen. b.j. cruz	9:58AM	29"	2 / 2	EC	BC	CP 28.8
18	972	sen. mike cruz	9:59AM	31"	2 / 2	EC	BC	CP 28.8
19	972	sen. kasperbauer	10:00AM	60"	2 / 2	EC	BC	CP 14.4
20	972	sen. klitzie	10:01AM	1'14"	2 / 2	G3	BC	CP 14.4
21	972	sen. jesse lujan	10:03AM	1'39"	2 / 2	EC	BC	CP 9600
22	972	sen. palacios	10:05AM	37"	2 / 2	EC	BC	CP 28.8
23	972	sen. respicio	10:06AM	31"	2 / 2	EC	BC	CP 28.8
24	972	sen. tenorio	10:07AM	2'18"	2 / 2	G3	BC	CP 9600
25	972	sen. unpingco	10:10AM	56"	2 / 2	EC	BC	CP 14.4
26	972	sen. won pat	10:11AM	56"	2 / 2	EC	BC	CP 14.4
27	973	4773079	10:12AM	36"	1 / 1	EC		CP 14.4
28	974	pdn	10:13AM	34"	1 / 1	EC	BC	CP 14.4
29	974	marianas variety	10:14AM	35"	1 / 1	EC	BC	CP 14.4
30	974	k stereo	10:15AM	40"	- / 1		BC	0510
31	974	glimpses	10:16AM	25"	1 / 1	EC	BC	CP 26.4
32	974	harvest radio	10:17AM	37"	- / 1		BC	053F
33	974	kuam	10:18AM	26"	1 / 1	EC	BC	CP 26.4
34	974	power ninty eight	10:18AM	34"	1 / 1	EC	BC	CP 14.4
35	974	hit radio	10:19AM	21"	1 / 1	EC	BC	CP 28.8
36	974	adventist radio	10:20AM	1'08"	1 / 1	EC	BC	CP 9600
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38	974	rlene live	10:23AM	34"	1 / 1	EC	BC	CP 14.4
39	974	abc fourteen	10:24AM	20"	1 / 1	EC	BC	CP 28.8
40	975	sen. frank aguon	10:25AM	21"	1 / 1	EC	BC	CP 28.8
41	975	sen. joanne brown	10:25AM	52"	1 / 1	EC	BC	CP 9600
42	975	sen. eddie calvo	10:27AM	26"	1 / 1	EC	BC	CP 28.8
43	975	sen. b.j. cruz	10:27AM	30"	1 / 1	EC	BC	CP 31.2
44	975	sen. mike cruz	10:28AM	20"	1 / 1	EC	BC	CP 28.8
45	975	sen. kasperbauer	10:29AM	37"	1 / 1	EC	BC	CP 14.4
46	975	sen. klitzie	10:30AM	47"	1 / 1	G3	BC	CP 14.4
47	975	sen. jesse lujan	10:31AM	52"	1 / 1	EC	BC	CP 9600
48	975	sen. palacios	10:33AM	24"	1 / 1	EC	BC	CP 28.8
49	975	sen. respicio	10:34AM	20"	1 / 1	EC	BC	CP 28.8
50	975	sen. tenorio	10:34AM	1'14"	1 / 1	G3	BC	CP 9600
51	975	sen. unpingco	10:36AM	35"	1 / 1	EC	BC	CP 14.4
52	975	sen. won pat	10:37AM	34"	1 / 1	EC	BC	CP 14.4

Total 76

* Called **

No.	Doc	Remote Station	Start Time	Duration	Pages	Mode	Comments	Results
1	963	671 7341003	4-28-06; 3:56PM	43"	-	G3		053F
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Total 1

otes :

C: Error Correct	RE: Resend	PD: Polled by Remote	MB: Receive to Mailbox
C: Broadcast Send	MP: Multi-Poll	PG: Polling a Remote	PI: Power interruption
P: Completed	RM: Receive to Memory	DR: Document Removed	TM: Terminated by user
S: Host Scan	HP: Host Print	FO: Forced Output	WT: Waiting Transfer
F: Host Fax	HR: Host Receive	FM: Forward Mailbox Doc.	WS: Waiting Send



GOVERNMENT OF GUAM
RETIREMENT FUND
 STABILITY · SECURITY · REWARDS

Felix P. Camacho
 Governor

Kaleo S. Moylan
 Lieutenant Governor

Paula M. Blas
 Acting Director

Trustees:

Joe T. San Agustin
 Chairman

March 29, 2006

Office of the Speaker

MARK FORBES

Dr. Wilfred P. Leon Guerrero
 Vice-Chairman
 Investment Committee, Chairman

Date: 3/29/06

Time: 12:00 pm.

Rec'd by: [Signature]

Print Name: [Signature]

James J. Taylor, Ph.D.
 Secretary
 Investment Committee, Vice-Chairman

The Honorable Mark Forbes
 Speaker
 Chairman, Committee on General and Omnibus Matters
I Mina'Bente Ocho Na Liheslaturan Guåhan
 324 W. Soledad Avenue
 Hagåtña, Guam 96910

Katherine T.E. Taitano
 Trustee
 Treasurer

Re: Government of Guam Retirement Fund Omnibus Bill to 4 G.C.A., Chapter 8, Article 1 (Defined Benefit Plan) and Article 2 (Defined Contribution Plan)

George A. Santos
 Trustee
 Members' & Benefits Committee, Chairman

Anthony C. Blaz
 Trustee
 Audit & Operations Committee, Chairman

Dear Speaker Forbes:

Gerard A. Cruz
 Trustee

At its March 10, 2006 Board Meeting, the Government of Guam Retirement Fund Board of Trustees passed Resolution No. 2006-001 in support of the attached omnibus bill. I am transmitting the necessary statutory amendments as approved by the Retirement Fund Board of Trustees to be considered and passed by the 28th Guam Legislature.

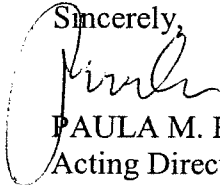
Enclosed is the required statutory language:

AN ACT TO AMEND SECTIONS 8201(m), 8206, 8206.1, AND 8207 OF, ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND SECTIONS 8210 AND 8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND SECTION 8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; AND TO AMEND SECTION 8217 TO CLARIFY THAT ADMINISTRATIVE FEES, CHARGES, AND FORFEITURES MAY

BE APPLIED TO OFFSET THE DEFINED CONTRIBUTION RETIREMENT SYSTEM START UP COSTS; AND TO AMEND SECTIONS 8140, 8140.1 AND 8141 PERTAINING TO RETIREMENT FUND PERSONNEL; AND TO AMEND SECTION 8157 OF ARTICLE 1, CHAPTER 8 TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO PERMITTING LIMITED INVESTMENTS IN COMPANIES IN LACKING MULTI-YEAR TRACK RECORDS FOR PROFIT AND DIVIDENDS SO AS TO ALLOW THE DEFINED BENEFIT PLAN TO OWN STOCK IN MULTI-SIZED AND GROWTH COMPANIES IN ROUGH PROPORTION TO THE WEIGHT THEY COLLECTIVELY REPRESENT IN THE OVERALL MARKET; AND TO AMEND SECTION 8158 ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE BOARD OF TRUSTEES TO INVEST UP TO THIRTY PERCENT (30%) OF RETIREMENT FUND ASSETS AT COST IN INVESTMENT FUNDS SUCH AS INVESTMENT TRUSTS, MUTUAL FUNDS, COMMON TRUST FUNDS AND COMMINGLED FUNDS

If you require additional information or have any questions please do not hesitate to contact me at 475-8900/01 or by email at pmbblas@ite.net.

Sincerely,



PAULA M. BLAS
Acting Director

GOVERNMENT OF GUAM RETIREMENT FUND

RESOLUTION NO. 2006 - 001

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE GOVERNMENT OF GUAM RETIREMENT FUND:

WHEREAS, the Board of Trustees in its capacity as the Board of Trustees for the Defined Contribution Retirement System (DCRS), supports legislation to amend the DCRS statute to clarify participation in the DCRS, to minimize "double dipping" by GovGuam retirees, to reflect the authorization of assignments pursuant to court-ordered child support and alimony payments, and to clarify that administrative fees, charges and forfeitures may be applied to offset DCRS start-up costs; and


WHEREAS, the Board of Trustees in its capacity as the Board of Trustees for the Defined Benefit Plan (DB Plan) supports legislation to amend the DB Plan to enhance their ability to attract and retain personnel for key positions; and

WHEREAS, the Board of Trustees in its capacity as the Board of Trustees for the DB Plan supports legislation to amend the DB Plan to increase the amount of funds that may be invested in companies lacking multi-year track records for profit and dividends so as to allow the DB Plan to own stock in multi-sized and growth companies in rough proportion to the weight they collectively represent in the overall market; and

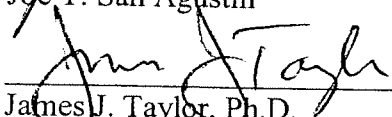
WHEREAS, the Board of Trustees in its capacity as the Board of Trustees for the DB Plan supports legislation to amend the DB Plan to increase the amount of funds that may be invested in investment funds such as investment trusts, mutual funds, common trust funds and commingled funds, to provide the DB Plan with an opportunity to improve the overall risk/return of the investment portfolio for the benefit of the Retirement Fund as a whole; and

NOW, THEREFORE, BE IT RESOLVED, that effective upon the adoption of this Resolution, the Board of Trustees of the Government of Guam Retirement Fund in exercise of its duties, hereby resolves to support the attached draft omnibus bill for the purposes set forth therein.

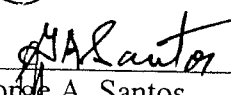
DULY AND REGULARLY ADOPTED BY THE BOARD OF TRUSTEES OF THE GOVERNMENT OF GUAM RETIREMENT FUND, ON THE 10th DAY OF MARCH, 2006.



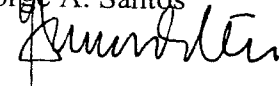
Joe T. San Agustin



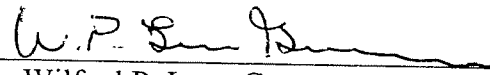
James J. Taylor, Ph.D.



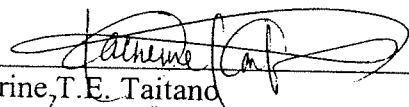
George A. Santos



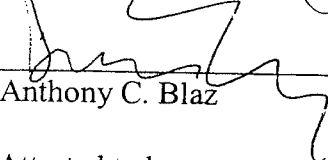
Gerard A. Cruz



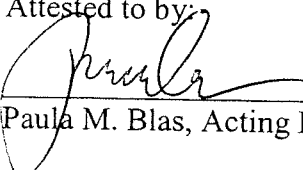
Dr. Wilfred P. Leon Guerrero



Katherine T. E. Taitano



Anthony C. Blaz

Attested to by:


Paula M. Blas, Acting Director



GOVERNMENT OF GUAM
RETIREMENT FUND
STABILITY · SECURITY · REWARDS

Felix F. Camacho
Governor

Kaleo S. Moylan
Lieutenant Governor

Paula M. Blas
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Chairman

Dr. Wilfred P. Leon Guerrero
Vice-Chairman
Investment Committee, Chairman

James J. Taylor, Ph.D.
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Trustee
Treasurer

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Trustee
Members' & Benefits Committee, Chairman

Anthony C. Blaz
Trustee
Audit & Operations Committee, Chairman

Gerard A. Cruz
Trustee

May 3, 2006

The Honorable Mark Forbes
Speaker
I Mina' Bente Ocho Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

Mr. Speaker and Members of the Guam Legislature:

We are indeed grateful for this opportunity to appear before this Committee, for basically the first time for an evaluation of the financial situation of the Retirement Fund. Ever since this Board convened as a new Retirement Fund Board of Trustees, consisting of four elected trustees and three appointees in 2003; the Board has been studying ways and means to "effectively and efficiently" manage and operate the Fund.

This morning, hopefully, we will discuss several alternatives to ensure the financial stability of the Fund for the benefits of its beneficiaries, - the retirees and the future retirees and their survivors.

This morning three Bills will be discussed, but, surely, these Bills, even if enacted today, would not entirely address the overall long-term challenges and issues confronting the management and operations of the Fund.

Without going into the discussion of the basic information regarding the Fund's assets and liabilities, which I am sure they are all publicly available, and in the interest of time, I would generally summarize the basic issues confronting the Retirement Fund Board of Trustees.

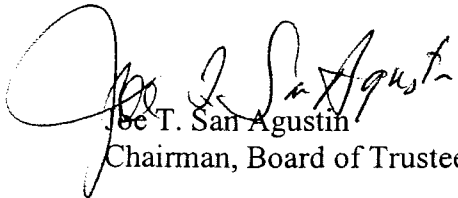
1. Under Court Orders, and the contractual relationship between the Government, as the employer and the member government of Guam employees, the Fund must be established as a "public trust corporation". We had hoped that when Senator Klitzkie introduced Bill No. 254, to recognize other public utility instrumentalities of the Government as a "public

corporation,” the Retirement Fund would likewise be included. Unfortunately, Bill No. 254 was enacted without the proposed amendment. Due to the fiduciary liabilities of the members of the Retirement Fund Board, I might add such fiduciary obligations are not being shared by anyone outside of the Board, yet these “reviewing officials under existing statutes” exercise veto powers over the Board’s decisions, without sharing or assuming any fiduciary liabilities like we as Board Members. To ensure that the trustee-relationship and the contractual relationship among and between the Government and the member employees are “protected,” we urge the Guam Legislature to enact a trustee-legislation and/or to support an amendment to the Guam Organic Act to accomplish this fact.

2. For an immediate necessary action, we urged the enactment of legislation that would authorize or designate the Fund Board to “adopt the General Procurement Regulations” and “to have the authority to promulgate personnel rules and regulations” currently being administered by the Department of Administration. Our limited ability to recruit the necessary financial expertise could be the basis of a member lawsuit contributing to any financial shortfall. Such a member lawsuit is not uncommon in other pension litigations. Further, there are certain provisions in the Budget Law that are being made applicable to the Retirement Fund, notwithstanding the fact that the Fund’s operational budget is not being appropriated by the Legislature. The ability of the Fund to act more expeditiously is crucial towards securing financial expertise to meet the immediate needs of the Fund. I might strongly add that under the current arrangement, Members of the Retirement Fund Board of Trustees are “continually in harms way” by our failure, to act quickly—exposing ourselves to financial losses or lose the opportunity to make any financial gains in the money market industries.
3. The role of the Attorney General is at best a conflicting one, and needs to be clarified. We discussed this situation several times with the Speaker and Senator Ray Tenorio as well as with other Senators. You might recall that the Board’s position in this regard was covered in our written testimony in opposition to Bill No. 133, dated July 5, 2005, submitted to Senator Ray Tenorio, Chairman, Committee on Criminal Justice, Public Safety, Youth and Foreign Affairs. Under current law, the Fund is authorized to hire its own legal attorney and/or to contract legal services, yet, it is not cleared what would be the legal position if there is a conflict between the interest of the Retirement Fund and the Government, represented by the Attorney General- I might add at this venture, the Fund has been financially exposed, from cases that the Attorney General has embarked, without an apparent success. We urge that immediate clarification be made so that the future “potential financial bleeding” of the Fund’s assets might be minimized. Your attention is invited to the US Congressional Research Library review, dated January 13, 2004, “Analysis of the Office of the Attorney General of Guam,” concluding that local legislation would be required to clarify the “duties, powers, and responsibilities of the Attorney General of Guam under the Guam Organic Act of Guam;” however, failure of the Legislature to act, has indeed forced the Attorney General to seek “clarification” through the judicial process, which is a long, tedious and expensive process, indeed.

4. Section 8137 mandates that the Government as the employer contribute at the actuarial rate. The Legislature, to date, has not been able to meet this statutory requirement, and chose to "provide funding at a lower rate". If the Government as the employer continually chose not to fund at the actuarial rate, then, at least provide the Fund Trustees the necessary investment tools to "mitigate" the differentials. Today, hopefully, the two Bills, Bill No. 295 and Bill No. 296, if enacted would substantially provide some "breathing room".
5. Let me close, Mr. Speaker and members of this Committee, and let's proceed to discuss the various Bills now before this Committee. Members of the Fund Board, particularly the Investment Committee, currently chaired by Dr. Wilfred Leon Guerrero, our Staff, acting Director Paula Blas, and our Investment Advisor, Mr. Terry Dennison are here to present some detailed justifications.

Respectfully Submitted,


Joe T. San Agustin
Chairman, Board of Trustees



GOVERNMENT OF GUAM
RETIREMENT FUND
STABILITY · SECURITY · REWARDS

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Gerard A. Cruz
Trustee

May 2, 2006

The Honorable Mark Forbes
Speaker
I Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hesler Place
Hagåtña, Guam 96910

Re: Testimony on Bill 293

Mr. Speaker and Committee Members of the Committee on General and Omnibus Matters. I, Paula M. Blas, Acting Director along with members from the Board of Trustees of the Government of Guam Retirement Fund, thank you for this opportunity to appear before you in full support of Bill 293 (EC).

This bill addresses several issues relative to the Government of Guam Defined Contribution Retirement System (DCRS) as established by PL 23-42.

- Since the implementation of the Government of Guam (DCRS), management and the fund's third party administrator have found that many government of Guam employees whose employment is other than full-time are disadvantaged from participating from any of the government of Guam retirement plans. Additionally, P.L. 23-42 does not address the issue of defined benefit annuitants returning to employment. Subsequent changes to the Government of Guam Defined Benefit Plan, did not allow members to return to the defined benefit plan, however P.L. 23-42 prohibited retirees in the defined benefit plan from participating in the DCRS. Therefore, many defined benefit retirees are required to suspend their annuity and not allowed to participant in any of the existing plans. Sections 2-5 of Bill 293 clarify the eligibility and participation in the DCRS as of October 1, 2005.
- A major provision identified in P.L. 23-42 prohibits the release of the employer's contribution although the member has full rights to the amount. We are not aware of any other defined contribution plan with this provision. This provision makes the plan unattractive for members who have earned a benefit with the government of Guam. This prohibition conflicts with the federal government's policy of allowing defined contribution plans the

424 Route 8
Maite, Guam 96910
Tel: 671.475.8900
Fax: 671.475.8922
www.ggrf.com

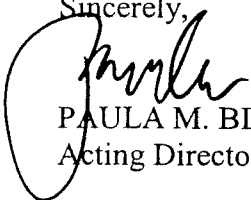
portability afforded to employees who have earned a vested benefit. Additionally, the right to benefits section updates the plan's mandate to adhere to the court orders that relate to domestic relations. Currently, P.L. 23-42 is silent when addressing domestic relation court orders. The change in the mandate is required as it clearly defines and recognizes any order of the court as it relates to domestic relation orders. Sections 6-8 mandates the portability of such defined contribution plan and solidifies the rights to benefits under domestic relations orders.

- Since the adoption of the plan in FY1995 the federal statutes have changed in regards to the management and administration of defined contribution plans. Legislation such as the Economic Growth and Tax Relief Reconciliation Act of 2001, Uniformed Services Employment and Reemployment Rights Act, Small Business Job Protection Act, and the Taxpayer Relief Act have all required that qualified plans be amended to include provisions addressed in the federal mandates.

Additionally, in response to the GGRF Independent Auditor's Report on Compliance and Internal Control over Financial Reporting, finding no. 2002-05, relative to the use of forfeitures to pay for the DCRS administrative expenses and start-up costs, the Fund seeks to further clarify the use of these funds. Sections 9 – 10 of Bill 293 address these provisions as adopted by the GGRF Board of Trustees.

The GGRF Board of Trustees and management appreciate the time and favorable passage of Bill 293 as we feel it will enhance the benefits the plan is designed to offer all government of Guam employees.

Sincerely,




PAULA M. BLAS
Acting Director

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No 293 (EC)

Introduced by:

Mark Forbes 

AN ACT TO AMEND SECTIONS 8201(m), 8206, 8206.1, AND 8207 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING ELIGIBILITY FOR MEMBERSHIP IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM AND SUSPENDING ANNUITIES OF DEFINED BENEFIT PLAN RETIREES ENROLLED IN THE DEFINED CONTRIBUTION RETIREMENT SYSTEM; TO AMEND SECTIONS 8210 AND 8211 TO CLARIFY VESTING AND DISTRIBUTION PROVISIONS; TO AMEND SECTION 8216 TO AUTHORIZE ASSIGNMENTS PURSUANT TO COURT ORDERED CHILD SUPPORT AND ALIMONY PAYMENTS; AND TO AMEND SECTION 8217 TO CLARIFY THAT ADMINISTRATIVE FEES, CHARGES, AND FORFEITURES MAY BE APPLIED TO OFFSET THE DEFINED CONTRIBUTION RETIREMENT SYSTEM START UP COSTS.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that, effective as of October 1, 2005, all new GovGuam employees, even those whose

1 employment is purely temporary, seasonal, intermittent or part-time shall participate
2 in the Defined Contribution Retirement System, rather than having the option to reject
3 membership, in which case the employer and employee would contribute to Social
4 Security. *I Liheslaturan Guåhan* further finds that to fully implement the policy of
5 minimizing "double dipping" by GovGuam retirees, Defined Benefit Plan annuities
6 must be suspended upon re-employment by GovGuam, even if a retiree participates in
7 the Defined Contribution Retirement System. *I Liheslaturan Guåhan* further finds
8 that the Defined Contribution Retirement statute should be amended to authorize
9 assignments pursuant to Court-ordered child support and alimony payments and to
10 clarify that administrative fees, charges and forfeitures may be applied to offset
11 Defined Contribution Retirement System start up costs, as noted by the Public
12 Auditor's Report on Compliance and Internal Control Over Financial Reporting Based
13 on an Audit of Financial Statements Performed in Accordance with *Government*
14 *Auditing Standards*, Finding No. 202-5, dated September 30, 2003 and 2002.

15 **SECTION 2. Section 8201(m) of Article 2, Chapter 8, Title 4 of the**
16 **Guam Code Annotated is hereby amended to read as follows:**

17 (m) *Member of the Defined Contribution Retirement System* means any
18 person who is eligible to participate and participates in the Defined
19 Contribution Retirement System in accordance with Sections 8206, 8206.1 and
20 ~~8207 becomes employed after September 30, 1995 by an employer, or who has~~
21 ~~elected to transfer from the existing retirement system to the Defined~~
22 ~~Contribution System in accordance with this article; provided that any person~~
23 ~~whose employment by an employer is purely temporary, seasonal, intermittent~~
24 ~~or part-time shall have the option of accepting or rejecting membership and~~
25 ~~shall become a member only upon submission of a written request to the Board~~
26 ~~for membership.~~

1 **SECTION 3. Section 8206 of Article 2, Chapter 8, Title 4 of the Guam**
2 **Code Annotated is hereby amended to read as follows:**

3 **§8206. Participation in Government of Guam Defined Contribution**
4 **System; limiting participation in existing retirement system.**

5 (a) Beginning October 1, 1995, the Government of Guam Defined
6 Contribution System shall be the single retirement program for all new
7 employees whose employment commences on or after that date. No additional
8 new employees may be admitted to the existing retirement system, except as
9 provided from time to time in the existing retirement system. Members of the
10 existing retirement system whose employment continues beyond September 30,
11 1995, shall continue to contribute and participate in the existing retirement
12 system without change in provisions or benefits, except as provided from time
13 to time in the existing retirement system.

14 (b) Any employee who leaves government service after September 30,
15 1995 who is later reemployed by the Government of Guam shall become a
16 member of ~~be eligible for membership in~~ the Defined Contribution Retirement
17 System except persons who are ineligible for membership under §8206.1;
18 provided, that he or she shall be entitled to readmission to the existing
19 retirement system in which he or she was originally a member, if such
20 employee has not withdrawn his or her contributions from the existing
21 retirement system. However, if such employee has withdrawn his or her
22 contributions from the existing retirement system, the readmission to the
23 existing retirement system shall not be permitted and the employee will be
24 entitled only to membership in the Government of Guam Defined Contribution
25 System in accordance with this Article.

1 (c) Any employee who retires after September 30, 1995, and who later
2 becomes re-employed by the Government of Guam shall be entitled to re-
3 admission to the existing retirement system and subject to suspension of annuity
4 requirements pursuant to 4 GCA §8121, as amended. If such re-employed
5 retiree is prohibited from re-admission to the existing retirement system and
6 becomes a member of the Defined Contribution Retirement System, his or her
7 annuity under the existing plan shall be suspended in the same manner and to
8 the same extent applicable to similarly situated employees pursuant to 4 GCA
9 §8121, as amended.

10 (d) Any employee whose employment commences after October 1,
11 2005 and whose employment is purely temporary, seasonal, intermittent or part-
12 time shall be a member in the Defined Contribution Retirement System unless
13 the employee is eligible for re-admission to the existing retirement system.

14 **SECTION 4. Section 8206.1 of Article 2, Chapter 8, Title 4 of the Guam**
15 **Code Annotated is hereby amended to read as follows:**

16 **§8206.1. Same: Ineligible Persons.** The following persons employees shall
17 not be eligible for membership:

- 18 (a) Persons whose services are compensated on a fee basis.
19 (b) Independent contractors.
20 (c) Persons whose employment is for a specific project.
21 (d) Persons who are employed in the Senior Citizens Community
22 Employment Program.

23 **SECTION 5. Section 8207 of Article 2, Chapter 8, Title 4 of the Guam**
24 **Code Annotated is hereby amended to read as follows:**

25 **§8207 Voluntary Participation in System.**

1 (a) Any member with less than twenty (20) years service credit, recognized
2 under the existing system, may, upon written election, voluntarily elect
3 membership in the Government of Guam Defined Contribution System, on a
4 prospective basis, on or after October 1, 1995. Said member of the existing
5 retirement system, upon election to withdraw that person's contribution plus
6 interest, must then deposit such funds into the Government of Guam Defined
7 Contribution Retirement System; and as a result thereof, such member's years
8 of service credit in the existing system shall be applied towards the years of
9 employment service for vesting purposes under §8210 of this Article, and no
10 further benefits will be payable to such member under the existing retirement
11 system.

12 (b) Members electing to transfer to the Defined Contribution Retirement
13 System will have their transfers effective at the end of the first pay period
14 following the month of transfer. Employees will have sixty-five (65) months
15 after enactment of this legislation, and between March 1 and May 31 of every
16 year, beginning in the year 2002, in which to elect to transfer to the Defined
17 Contribution Retirement System. After having made such election, the
18 employee may not change such election or again become a member of the
19 existing retirement system. Any member who does not select one (1) option or
20 the other at the end of the sixty-five (65) month period, except as provided for
21 in this Section, shall be deemed to have irrevocably elected to be a member in
22 the existing system.

23 (c) Notwithstanding (a) and (b) above, for employment commencing prior to
24 October 1, 2005, any employee whose employment is purely temporary,
25 seasonal, intermittent or part-time shall have the option of accepting or rejecting
26 membership and shall become a member only upon submission of a written

1 request to the Board for membership; such option to expire as of October 1,
2 2005 at which time membership in the Defined Contribution Retirement System
3 shall be mandatory unless the employee is eligible for readmission to the
4 existing retirement system.

5 **SECTION 6. The heading of Section 8210 of Article 2, Chapter 8, Title**
6 **4 of the Guam Code Annotated is hereby amended to read as follows:**

7 **§8210. Termination of Membership. Vesting Schedule.**

8 **SECTION 7. Section 8211 of Article 2, Chapter 8, Title 4 of the Guam**
9 **Code Annotated is hereby amended to read as follows:**

10 **§8211. Distributions Following Termination of Employment.** (a) Normal
11 and Early Retirement. At any time after a member reaches the early retirement
12 age of fifty-five (55) years and has completed five (5) years of employment for
13 vesting purposes, or reaches the normal retirement age of sixty-five (65) years,
14 that person may elect to receive retirement benefits by notifying the Board, or
15 its designee, in writing of such intention not less than sixty (60) days prior to
16 the effective date of retirement. Retirement payments shall commence as soon
17 as practicable after retirement in accordance with the Defined Contribution
18 Retirement System Plan Document.

19 (b) ~~In the event of disability.~~—A, a member may elect to receive a
20 distribution of the member's vested account balances as soon as practicable after
21 termination of employment due to disability as defined in the Defined
22 Contribution Retirement System Plan Document; provided, that any distribution
23 of the member's vested account balances will render the member ineligible to
24 receive any pre-retirement benefits provided under any long-term disability
25 insurance policy issued pursuant to § 8213 or Article 4 of this Title. In the
26 event of disability after termination of employment, a member may elect to

1 receive a distribution of that member's vested account as soon as practicable
2 after certification of said disability in accordance with the Defined Contribution
3 Retirement System Plan Document.

4 (c) Death. In the event of a member's death, distribution of the member's
5 vested account balances to the member's beneficiaries shall be made as soon as
6 practicable after death in accordance with the Defined Contribution Retirement
7 System Plan Document.

8 (d) Other Termination of Employment. In the event of termination of
9 employment for reasons other than retirement, disability or death, a member
10 may elect to receive a distribution of the member's vested account balances as
11 soon as practicable after termination of employment.

12 **SECTION 8. Section 8216 of Article 2, Chapter 8, Title 4 of the Guam**
13 **Code Annotated, is hereby amended retroactively to the date of any applicable**
14 **court orders, to read as follows:**

15 **§8216. Right to benefits not subject to execution, etc.** The right of any
16 person to a benefit provided for in this Article shall not be subjected to
17 execution, attachment, garnishment, the operation of bankruptcy or insolvency
18 laws, or other process whatsoever, nor shall any assignment thereof be
19 enforceable in any court, except court orders that relate to the provision of child
20 support, alimony payments, or marital property rights to a spouse, child or other
21 tax dependent issued pursuant to Guam's or a state's domestic relations law.

22 **SECTION 9. Section 8217 of Article 2, Chapter 8, Title 4 of the Guam**
23 **Code Annotated is hereby amended retroactively to October 1, 2001, to read as**
24 **follows:**

1 **§8217. Administrative Expenses.** (a) Fees Or Charges Paid By
2 Participants. The Board of Trustees may provide for administrative fees or
3 charges to be paid by participants in the following manner:

4 (1) For fiscal years beginning October 1, 1995, and October 1,
5 1996, the Board of Trustees may assess an amount up to four percent (4%)
6 of the employer and member contributions.

7 (2) For fiscal years beginning October 1, 1997, and thereafter, the
8 Board of Trustees may assess an amount up to two percent (2%) of the
9 employer and member contributions.

10 (b) Any amounts collected under §8217(a), but not needed for administrative
11 expenses, including start-up costs of the plan must be allocated to member
12 accounts.

13 (c) Use of Forfeitures. For fiscal years beginning October 1, 2001 and
14 thereafter, the Board of Trustees shall use the aggregate amount of forfeitures
15 released from the suspense account described in 8210(e) at the end of each
16 fiscal year to pay for the plan's administrative expenses, including start-up costs
17 of the plan, and to reduce administrative fees or charges paid by participants
18 under §8217(a) allowed by this Section.

19 **SECTION 10. Effective Date.** Upon enactment, this provisions of this
20 Chapter shall take effect retroactively as of October 1, 2005, except as expressly
21 provided to take effect earlier.

22 **SECTION 11. Severability.** If any provision of this Act or its application to
23 any person or circumstances is held invalid, the invalidity shall not affect other
24 provisions or applications of this Act which can be given effect without the invalid
25 provision or application, and to this end the provisions of this Act are severable.