

I MINA 'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) REGULAR SESSION

Bill No. 394-32(COR)

***As Substituted by the Author on the Floor**

Introduced by:

B. J. F. Cruz

AN ACT TO ADD A NEW ARTICLE 5 TO TITLE 4, CHAPTER 8, OF THE GUAM CODE ANNOTATED TO CREATE A NEW “HYBRID” RETIREMENT SYSTEM WITH MANDATORY PARTICIPATION BY GOVERNMENT OF GUAM EMPLOYEES HIRED AFTER DECEMBER 31, 2014; WITH OPTIONAL PARTICIPATION FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM PARTICIPANTS WHO ELECT TO TRANSFER TO THE NEW HYBRID PLAN IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED

BE IT ENACTED BY THE PEOPLE OF GUAM;

1 **SECTION 1. Legislative Findings and Intent.** *I Mina'trentai Dos Na*
2 *Liheslaturan Guåhan* finds that there are three separate retirement plans generally
3 available to Government of Guam employees: (a) employees employed on or
4 before September 30, 1995 were required to become members of the Retirement
5 Fund (Defined Benefit Plan) under Article 1, Chapter 8, Title 4 of the Guam Code
6 Annotated; (b) employees employed after September 30, 1995 were and remain
7 required to become participants in the Defined Contribution Retirement System
8 under Article 2, Chapter 8, Title 4 of the Guam Code Annotated; and (c) all
9 employees, except those participating in a Government of Guam sponsored plan
10 under Section 403(b) of the Internal Revenue Code, may voluntarily participate in
11 the Deferred Compensation Program under Article 3, Chapter 8, Title 4 of the
12 Guam Code Annotated.

13 *I Mina'trentai Dos Na Liheslaturan Guåhan* further finds that the Defined

1 Contribution Retirement System was established in 1995 amid concerns and
2 findings by the Twenty-third Legislature that:

3 (a) The Actuarial Valuation of the Retirement [Defined
4 Benefit] Plan prepared by Deloitte & Touche as of September 30,
5 1993, expressed concern that benefit levels are rather excessive in
6 comparison to most other government retirement systems.

7 (b) Benefit levels and retirement policy should be reviewed
8 and benefit levels should be adjusted in order to address specific
9 inequities, excessiveness, and desired policy objectives.

10 (c) In establishing benefits for a new plan, generally
11 accepted retirement income levels standards should be observed and
12 the details of any new plan must be considered thoroughly and a
13 comprehensive education and implementation plan must be
14 developed.

15 Pub. L. No. 23-42:1 (Emphasis and bracketed text added).

16 *I Mina'trentai Dos Na Liheslaturan Guåhan* has continued to review benefit
17 levels and retirement policy in light of retirements of participants in the Defined
18 Contribution Retirement System, as well as the Defined Benefit Plan. The review
19 by *I Mina'trentai Dos Na Liheslaturan Guåhan* involved consideration of a
20 comprehensive and detailed study by Milliman, Inc. of alternative retirement plans
21 and arrangements, based upon the Actuarial Valuation under the Defined Benefit
22 Plan as of September 30, 2008, and updated through September 30, 2013. The
23 alternatives, which included cost comparisons between Social Security, the
24 Defined Contribution Retirement System, Social Security plus the Defined
25 Contribution Retirement System, and the Hybrid Plan herein, were prepared as part
26 of an analysis of funding requirements and retirement benefit levels of participants
27 in the Defined Contribution Retirement System and future government of Guam

1 employees.

2 *I Mina'trentai Dos Na Liheslaturan Guåhan* finds that the benefit levels of
3 retirees of the Defined Contribution Retirement System, including those who
4 voluntarily participate in the Deferred Compensation Program, have not been
5 sufficient to maintain their standards of living in retirement. *I Mina'trentai Dos*
6 *Na Liheslaturan Guåhan* finds that an alternative retirement program that
7 combines a defined benefit “floor” of benefits, along with a salary reduction
8 deferred compensation program, is necessary to provide a reasonable opportunity
9 for government employees to maintain their standards of living in retirement, while
10 also balancing the government’s budgetary needs and obligations to active and
11 retired government employees and their survivors. *I Mina'trentai Dos Na*
12 *Liheslaturan Guåhan* finds that this combination of benefits under an alternative
13 “Hybrid Retirement System” is reasonable and prudent to balance the needs of
14 government employees as well as the government as a whole, and is a preferred
15 alternative to a continued Defined Contribution Retirement System plus Social
16 Security, assuming that Social Security eligibility is extended to government of
17 Guam employees.

18 *I Mina'trentai Dos Na Liheslaturan Guåhan* intends to establish a new
19 “Hybrid Retirement System” to be comprised of participation in: (1) the
20 preexisting Retirement Fund that shall provide for an unreduced retirement defined
21 benefit equal to 1.75% of an employee’s average annual salary for each year of
22 credited service at retirement age 65; and (2) the preexisting Deferred
23 Compensation Program providing for a required pre-tax salary reduction
24 contribution equal to one percent (1%) of a member's base salary.

25 *I Mina'trentai Dos Na Liheslaturan Guåhan* intends that the new “Hybrid
26 Retirement System” shall require mandatory participation by all new employees
27 hired after December 31, 2014, with voluntary participation in certain

1 circumstances by participants with interests in the Defined Contribution
2 Retirement System who elect to participate in, and, in certain circumstances,
3 transfer their account balances to, the “Hybrid Retirement System” in accordance
4 with regulations promulgated by the Board of Trustees of the Retirement Fund.

5 **SECTION 2. Summary of Key Provisions in New Hybrid Retirement**
6 **System.** A new Article 5 as described in Section 3 of this Act shall be added to
7 Title 4 (Public Officers and Employees), Chapter 8 (Retirement of Public
8 Employees), of the Guam Code Annotated to create a “Hybrid Retirement System”
9 that is comprised of participation in the preexisting Retirement Fund and Deferred
10 Compensation Program. Subsections A – E of this Section 2 are provided only as
11 a convenient summary of the key provisions of the Hybrid Retirement System, and
12 are not meant to be codified in Chapter 8, Title 4 of the Guam Code Annotated.

13 **A. Participation in the Hybrid Retirement System**

14 (1) New Employees

15 With limited exceptions, new employees whose employment
16 commences on and after January 1, 2015 shall participate in the Hybrid
17 Retirement System.

18 (2) Former Employees Who Are Reemployed

19 (a) Reemployed employees who have retired under government of
20 Guam sponsored plans are prohibited from participating in the Hybrid
21 Retirement System. All reemployed employees who retired under the
22 Defined Benefit Plan, the Defined Contribution Retirement System, or the
23 Hybrid Retirement System are required to participate in the Defined
24 Contribution Retirement System.

25 (b) Reemployed employees who were members of the Defined
26 Benefit Plan and did not refund (withdraw) their employee contributions
27 upon separation from service shall resume membership in the Defined

1 Benefit Plan.

2 (c) Reemployed employees with interests in the Defined
3 Contribution Retirement System shall participate in the Defined
4 Contribution Retirement System, unless such eligible employees timely
5 elect to participate in the Hybrid Retirement System (and in some cases,
6 transfer their account balances) under the following circumstances:

7 (i) Such eligible employees who are reemployed during the
8 “Eligibility Window” commencing on January 1, 2015 and ending on
9 September 30, 2015, may, during the “Election Window”
10 commencing on April 1, 2015, and ending on September 30, 2015
11 (October 31, 2015, for reemployment commencing during the month
12 of September 2015), elect to participate in the Hybrid Retirement
13 System and transfer their account balances in the Defined
14 Contribution Retirement System to the Retirement Fund for credited
15 service effective as of January 1, 2016.

16 (ii) Such eligible employees who are reemployed after
17 September 30, 2015, may, within 30 days of their reemployment, elect
18 to participate in the Hybrid Retirement System, but may not transfer
19 their account balances in the Defined Contribution Retirement System
20 to the Retirement Fund for credited service.

21 (3) Disabled Participants Receiving Ancillary Benefits Under
22 Article 4

23 Disabled participants in the Defined Contribution Retirement System
24 who are receiving pre-retirement disability benefits under Title 4, Chapter 8,
25 Article 4 of the Guam Code Annotated during the “Eligibility Window”
26 commencing on January 1, 2015 and ending on September 30, 2015, may,
27 during the “Election Window” commencing on April 1, 2015 and ending on

1 September 30, 2015 (October 31, 2015, for participants who commence
2 receiving disability benefits during the month of September 2015), elect to
3 participate in the Hybrid Retirement System, effective upon the termination
4 of their disability benefits in connection with their retirement or their
5 reemployment with the Government of Guam, and transfer their account
6 balance in the Defined Contribution Retirement System to the Retirement
7 Fund for credited service.

8 (4) Current Employees

9 Employees participating in the Defined Contribution Retirement
10 System on December 31, 2014, may, during the “Election Window”
11 commencing on April 1, 2015 and ending on September 30, 2015, elect to
12 participate in the Hybrid Retirement System, and transfer the required
13 portion of their Defined Contribution Retirement System account balances to
14 the Retirement Fund thereunder, effective as of January 1, 2016. If the
15 participant’s account has been reduced by any withdrawal, the participant
16 may repay the withdrawn amounts, plus interest, in order to reinstate full
17 credited service under the Hybrid Retirement System.

18 **B. Employee Contributions**

19 (1) Mandatory pre-tax employee contributions equal to 9.5% of the
20 member's base salary shall be made to the Retirement Fund and subject to
21 the management and administration of the Retirement Fund under Article 1,
22 Chapter 8, Title 4, of the Guam Code Annotated.

23 (2) Mandatory pre-tax employee contributions equal to one percent
24 (1%) of the member's base salary shall be made to the Deferred
25 Compensation Program and subject to the management and administration
26 of the Deferred Compensation Program under Article 3, Chapter 8, Title 4,
27 of the Guam Code Annotated.

1 **C. Employer Contributions**

2 Employer contributions on behalf of members under the Retirement Fund
3 shall be in accordance with applicable contribution requirements described in
4 Section 8137, Article 1, Chapter 8, Title 4 of the Guam Code Annotated, as
5 amended.

6 **D. Member Retirement Benefits**

7 (1) The Retirement Fund shall provide a retirement annuity in an
8 amount equal to 1.75% of a member's average annual salary (the average of
9 the highest three annual base salaries, and where non-base compensation is
10 excluded) for each year of credited service (subject to a minimum \$1,200 per
11 year, and a maximum of 85% of average annual salary). The retirement
12 annuity shall be subject to annual increase based on specified fixed dollar
13 increments. A member shall be eligible to receive an unreduced retirement
14 annuity at age 65 (where the maximum benefit of 85% of average annual
15 salary is achieved with 49 years of credited service), and shall be eligible to
16 receive a reduced retirement annuity at age 55 and 25 years of credited
17 service (subject to a reduction of .5% per month for each month under
18 age 65).

19 (2) The Deferred Compensation Program shall provide a retirement
20 benefit equal to a member's account balance at the time of distribution,
21 which account balance may be paid in the form of annuity, installment, or
22 lump sum payments as may be elected by the member.

23 **E. Survivor And Disability Benefits**

24 (1) Under the Retirement Fund, surviving spouses shall be eligible
25 for survivor benefits equal to 60% of a member's retirement annuity
26 (minimum \$1,200 per year). Surviving minor children shall be eligible for
27 surviving child benefits equal to \$2,880 per child (up to \$14,400 in the

1 aggregate). An additional lump sum benefit of \$1,000 also is available.
2 The survivor annuity (but not annuity for surviving minor children) shall be
3 subject to annual increase based on specified fixed dollar increments.

4 (2) Under the Retirement Fund, a member shall be eligible for a
5 disability retirement annuity equal to fifty percent (50%) of the member's
6 average annual salary. The disability annuity shall be subject to annual
7 increase based on specified fixed dollar increments.

8 **SECTION 3. Statutory Provisions Establishing Hybrid Retirement**
9 **System.** Article 5, Sections 8501-8508 are added to Chapter 8, Title 4 of the
10 Guam Code Annotated, to read as follows:

11 **“Section 8501. Definitions**

12 As used in this Article, unless the context otherwise requires:

13 (a) *Actuarial Cost of Credited Service* means a percentage of
14 historical base salary corresponding to the service for which a member's
15 account is credited with employer contributions under the Defined
16 Contribution Retirement System through the date preceding the member's
17 transfer to the Hybrid Retirement System. The applicable percentage shall
18 be specified by the Board based on an actuarial review of the cost of
19 credited service. The same percentage shall apply to all members.

20 (b) *Board of Trustees* or *Board* means the Board of Trustees of the
21 government of Guam Retirement Fund, which is responsible for the
22 direction and operation of the affairs and business of the Hybrid Retirement
23 System.

24 (c) *Code* means the United States Internal Revenue Code of 1986,
25 as amended, and corresponding references to the Guam Territorial Income
26 Tax Code, as may be appropriate.

1 (d) *Deferred Compensation Program* means the government of
2 Guam Deferred Compensation Program established and operated in
3 accordance with Article 3 of this Chapter and inclusive of modifications in
4 the terms and conditions of the Deferred Compensation Program applicable
5 to the members of the Hybrid Retirement System under this Article 5.

6 (e) *Defined Contribution System* means the government of Guam
7 Defined Contribution Retirement System established and operated in
8 accordance with Article 2 of this Chapter and inclusive of modifications in
9 the terms and conditions of the Defined Contribution Retirement System
10 applicable to the members of the Hybrid Retirement System under this
11 Article 5.

12 (f) *Director* means the Director of the Government of Guam
13 Retirement Fund as appointed by the Board in accordance with Section 8140
14 of Article 1, Chapter 8 of Title 4 of the Guam Code Annotated.

15 (g) *Employer* means each and every line department or agency of
16 the Executive Branch, every autonomous and semi-autonomous agency or
17 instrumentality, every public corporation, every educational institution,
18 whether secondary or post-secondary, the Legislative Branch, the Judicial
19 Branch, the Public Defender Corporation and every public entity hereafter to
20 be created by law, within Guam which has employed or employs a member.

21 (h) *Excess Account Balance* means the amount by which a
22 member's account balances in Section 8208 (Member's Contributions) and
23 Section 8209.1(a) (Rollover of Member's Contributions from Section
24 8164(a)) of this Chapter exceeds the member's Actuarial Cost of Credited
25 Service.

26 (i) *Existing Retirement System* means the Government of Guam
27 Retirement Fund established and operated in accordance with Article 1 of

1 this Chapter and exclusive of modifications in the terms and conditions of
2 the Existing Retirement System applicable to the members of the Hybrid
3 Retirement System under this Article 5.

4 (j) *Hybrid Retirement System or Hybrid Plan* means the
5 Government of Guam Hybrid Retirement System established and operated
6 under this Article 5. The Hybrid Retirement System shall consist of the
7 mandated and coordinated participation of members in two separate and
8 preexisting retirement programs: (1) the Retirement Fund established and
9 maintained under Article 1, Chapter 8 of Title 4 of the Guam Code
10 Annotated; inclusive of the modifications to the terms and conditions of the
11 Retirement Fund for Hybrid Plan members as set forth in this Article 5; and
12 (2) the Deferred Compensation Program established and maintained under
13 Article 3, Chapter 8 of Title 4 of the Guam Code Annotated.

14 (k) *Member or Hybrid Plan member* means any person who meets
15 the eligibility requirements for membership in the Hybrid Retirement
16 System as described in Section 8502 and participates in the Hybrid
17 Retirement System.

18 (l) *Retirement Fund* means the Government of Guam Retirement
19 Fund established and operated in accordance with Article 1 of this Chapter
20 and inclusive of the modifications in the terms and conditions of the Existing
21 Retirement System applicable to members of the Hybrid Retirement System
22 under this Article 5.

23 **Section 8502. Establishment of the Government of Guam Hybrid**
24 **Retirement System; Membership in Hybrid Retirement System**

25 (a) Hybrid Retirement System. Beginning January 1, 2015, the
26 Government of Guam Hybrid Retirement System shall be established
27 hereunder, which System shall be comprised of membership under the

1 Government of Guam Retirement Fund established under Article 1 of this
2 Title and the Deferred Compensation Program established under Article 3 of
3 this Title. The Hybrid Retirement System does not comprise a separate fund
4 or trust for members thereunder, but is the coordinated dual participation on
5 a mandatory basis at specified benefit levels in both the Retirement Fund
6 and the Deferred Compensation Program. Beginning January 1, 2015, the
7 Hybrid Retirement System shall be the single retirement program for all new
8 employees whose employment commences on or after that date. No
9 additional new employees shall be admitted to the Defined Contribution
10 System on or after such date, except as provided from time to time in the
11 Defined Contribution System. Members of the Defined Contribution
12 System whose employment continues beyond December 31, 2015, shall
13 continue to contribute to and participate in the Defined Contribution System
14 without change in provisions or benefits, except for members who elect to
15 become Hybrid Plan members pursuant to Section 8502(b) or as provided
16 from time to time under the Defined Contribution System.

17 (b) Membership in Retirement Fund

18 (1) New Employees. All new employees whose employment
19 commences on or after January 1, 2015, and who satisfy the eligibility
20 requirements for membership under Sections 8105-8106, shall participate in
21 the Retirement Fund as "Hybrid Plan members" in accordance with such
22 eligibility requirements. No additional new employees shall be admitted to
23 the Existing Retirement System or the Defined Contribution System on or
24 after January 1, 2015, except as provided hereunder or provided from time to
25 time under the Existing Retirement System or the Defined Contribution
26 System, respectively. Members of the Existing Retirement System whose
27 employment continues beyond December 31, 2014, shall continue to

1 contribute and participate in the Existing Retirement System without change
2 in provisions or benefits, except as provided from time to time under the
3 Existing Retirement System. Except for those members who elect to
4 participate in the Hybrid Retirement System pursuant to Section 8502(b)(2),
5 members of the Defined Contribution System whose employment continues
6 beyond December 31, 2014, shall continue to contribute and participate in
7 the Defined Contribution System without change in provisions or benefits,
8 except as provided from time to time under the Defined Contribution
9 System.

10 (2) Hybrid Plan Election by Current Employees in Defined
11 Contribution System. All employees who are members in the Defined
12 Contribution System on December 31, 2014, shall be eligible to elect on a
13 voluntary basis to become Hybrid Plan members effective as of January 1,
14 2016, and to terminate active participation in the Defined Contribution
15 System as of such date, by making the appropriate election with the Hybrid
16 Retirement System in the form and manner as determined by the Board
17 during the election period commencing on April 1, 2015, and ending on
18 September 30, 2015. After having made such election to become a Hybrid
19 Plan member, the member may not change such election or again become an
20 active member of the Defined Contribution System. The failure to make
21 such election shall be deemed to constitute an election by the member to
22 remain as an active member under the Defined Contribution System. Such
23 election shall not apply to members in the Defined Contribution System who
24 have retired or otherwise terminated employment from government service
25 and who are not employed by the Government of Guam at the time of the
26 election and as of the January 1, 2016, effective date of participation in the
27 Hybrid Plan.

1 (3) Reemployment of Existing Retirement System Member.

2 Any employee who is a member in the Existing Retirement System, who
3 leaves government service and who is later reemployed after December 31,
4 2014 by the Government of Guam, shall become an active member in the
5 Existing Retirement System upon reemployment if such employee has not
6 received a refund of contributions resulting in ineligibility for membership
7 under Section 8130(b), and if such employee otherwise meets the eligibility
8 requirements under the Existing Retirement System. However, if such
9 employee has received a refund of contributions under Section 8130, and if
10 such employee otherwise meets the eligibility requirements for membership
11 under Sections 8105-8106, then such employee shall become an active
12 member in the Hybrid Retirement System upon reemployment.

13 (4) Reemployment of Defined Contribution System Member.

14 Any employee who is a member maintaining an interest in the
15 Defined Contribution System, who leaves government service and who is
16 later reemployed after December 31, 2014, by the Government of Guam,
17 shall become an active member in the Defined Contribution System upon
18 reemployment if such employee otherwise meets the eligibility requirements
19 under the Defined Contribution System. However, if such a member is
20 reemployed during the period commencing on January 1, 2015, and ending
21 on September 30, 2015, then: (A) the member shall be eligible to elect on a
22 voluntary basis to become a member of the Hybrid Plan if such member
23 otherwise meets the eligibility requirements for membership under Section
24 8105-8106; (B) the election period for this election shall be the period
25 commencing on April 1, 2015, and ending on September 30, 2015 (or
26 October 31, 2015, for members reemployed during the month of September
27 2015), and the effective date of the member's membership in the Hybrid

1 Plan shall be January 1, 2016; and (C) the member's account under the
2 Defined Contribution System shall be subject to transfer to the Hybrid
3 Retirement System in accordance with Sections 8503(d)(2) and 8504.
4 Further, if such a member is reemployed after September 30, 2015: (A) the
5 member shall be eligible to elect on a voluntary basis to become a member
6 of the Hybrid Plan if such member otherwise meets the eligibility
7 requirements for membership under Section 8105-8106; (B) the election
8 period for such election shall be the thirty (30)-day period beginning on the
9 date of reemployment, and the effective date of the member's membership in
10 the Hybrid Plan shall be the date of reemployment; and (C) the member's
11 account under the Defined Contribution System shall not be subject to
12 transfer to the Retirement Fund.

13 (5) Reemployment of Defined Contribution System Member
14 on Disability. Notwithstanding the above Section 8502(b)(4), a member of
15 the Defined Contribution System who had incurred a disability and at any
16 time been eligible to receive any benefits provided under any long-term
17 disability insurance policy issued pursuant to Section 8213 or Article 4 of
18 this Title shall not be eligible for membership under the Hybrid Retirement
19 System upon reemployment, but such member who satisfies the eligibility
20 requirements for membership under Sections 8206-8207 at such time shall
21 participate in the Defined Contribution System in accordance with such
22 eligibility requirements. However, in the case of a member of the Defined
23 Contribution System who is receiving disability benefits under Section 8213
24 or Article 4 of this Title during the period commencing January 1, 2015, and
25 ending on September 30, 2015, such member shall be eligible to elect on a
26 voluntary basis to become a member of the Hybrid Plan in the event of the
27 member's reemployment or retirement on or after January 1, 2016. For this

1 purpose, the election period for this election shall be the period commencing
2 on April 1, 2015, and ending on September 30, 2015 (or October 31, 2015,
3 for members who commence receiving disability benefits during the month
4 of September 2015), and the effective date of the member's membership in
5 the Hybrid Plan shall be the later of: (A) January 1, 2016, or (B) the date of
6 the member's reemployment or retirement.

7 (6) Reemployment of Government of Guam Retiree. Any
8 employee who retired under the Existing Retirement System, the Defined
9 Contribution System, or the Hybrid Retirement System, shall participate in
10 the Defined Contribution Plan upon reemployment.

11 (c) Membership in Deferred Compensation Program. Hybrid Plan
12 members shall participate in the Deferred Compensation Program effective
13 as of the date on which they commence participation in the Retirement Fund.

14 (d) Membership in Welfare Benefit Plans. Hybrid Plan members
15 shall not be eligible to participate in the welfare benefit plans established
16 and maintained under Article 4 of this Title. As such, members of the
17 Defined Contribution System who elect to become Hybrid Plan members
18 pursuant to Section 8502(b) shall terminate participation in such welfare
19 benefit plans effective as of the date on which they commence participation
20 in the Hybrid Retirement System.

21 (e) Applicability of Articles 1-3, Chapter 8. Except as otherwise
22 provided hereunder, with respect to Hybrid Plan members who participate in
23 the Retirement Fund, Defined Contribution System, and Deferred
24 Compensation Program in accordance with the Hybrid Retirement System
25 provisions under this Article 5, the provisions of Articles 1-3 of this Chapter
26 8, respectively, shall be applicable to Hybrid Plan members in a manner no
27 different than the application to members who are not Hybrid Plan members.

1 **Section 8503. Hybrid Plan Member Basic Retirement Annuity**

2 (a) Amount of Basic Retirement Annuity. Notwithstanding the
3 otherwise applicable formula under Section 8122 or other successor
4 provision, the basic retirement annuity payable to a Hybrid Plan member
5 under the Retirement Fund shall be the following:

6 (1) an amount equal to one and three quarters percent
7 (1.75%) of average annual salary for each year of credited service;

8 (2) no basic retirement annuity shall exceed eighty-five
9 percent (85%) of average annual salary; and

10 (3) the basic retirement annuity shall not, in any case, be less
11 than One Thousand Two Hundred Dollars (\$1,200) per year per member.

12 For purposes of defining "salary" and "average annual salary" under Section
13 8104(i) and (j), respectively, with respect to the determination of the basic
14 retirement annuity payable to a Hybrid Plan member, the term "salary" shall
15 mean the member's base salary excluding all non-base compensation.

16 (b) Automatic Increases in Annuity for Basic Retirement Annuity.
17 Any Hybrid Plan member receiving a basic retirement annuity under the
18 Retirement Fund shall receive each year on the anniversary date of the
19 member's retirement or entitlement, an automatic "sliding scale" increase in
20 the member's annual annuity as applicable under the Retirement Fund
21 pursuant to Section 8122 or other successor provision.

22 (c) Retirement. Notwithstanding the otherwise applicable
23 retirement requirements under Sections 8119-8120.1 or other successor
24 provisions, a Hybrid Plan member may retire on a service retirement annuity
25 under the Retirement Fund, upon written application to and approval by the
26 Board; provided that such member shall have attained at least sixty-five (65)
27 years of age and has completed five (5) years of service. However, at the

1 option of the Hybrid Plan member, whether active or inactive, such member
2 may retire after (1) attaining at least fifty-five (55) years of age and (2)
3 completing twenty-five (25) years of service, in which case the retirement
4 annuity for such member shall be reduced one half (1/2) of one percent (1%)
5 for each month such member is under the age of sixty-five (65) years at such
6 time of retirement, from the amount of the retirement annuity determined for
7 such member as of his attainment of age sixty-five (65).

8 (d) Credited Service for Transfers from Defined Contribution
9 System

10 (1) Transfer of Account to Hybrid Retirement System. With
11 respect to a member in the Defined Contribution System who elects to be a
12 member in the Hybrid Retirement System effective as of January 1, 2016, in
13 accordance with the election procedures under Section 8502(b)(2), the
14 member's account balance under the Defined Contribution System shall be
15 transferred to the Hybrid Retirement System, in accordance with Section
16 8504, effective as of January 1, 2016. Further, with respect to a member in
17 the Defined Contribution System who is reemployed during the period
18 commencing January 1, 2015, and ending on September 30, 2015, by the
19 Government of Guam and who becomes a member in the Hybrid Retirement
20 System effective as of January 1, 2016, following reemployment in
21 accordance with Section 8502(b)(4), the member's account balance under the
22 Defined Contribution System shall be transferred to the Hybrid Retirement
23 System, in accordance with Section 8504, effective as of January 1, 2016.
24 Finally, with respect to a member in the Defined Contribution System who is
25 receiving disability benefits and who becomes a member in the Hybrid
26 Retirement System upon reemployment or retirement in accordance with
27 Section 8502(b)(5), the member's account balance under the Defined

1 Contribution System shall be transferred to the Hybrid Retirement System,
2 in accordance with Section 8504, effective as of the effective date of the
3 member's membership in the Hybrid Plan as described in Section
4 8502(b)(5). In these cases, as of the effective date of the transfer of a
5 member's account from the Defined Contribution System to the Hybrid
6 Retirement System, such member's membership in the Defined Contribution
7 System shall terminate. The transfer of a member's account from the
8 Defined Contribution System to the Hybrid Retirement System attributable
9 to the transfer of Member Contributions pursuant to Section 8208, and
10 Member's Contribution Reserve and Transfer Incentive Reserve pursuant to
11 Section 8209.1(a)-(b), shall be made in accordance with Section 8504. The
12 transfer of a member's Employer Account to the Hybrid Retirement System
13 attributable to the transfer of Employer's Contributions pursuant to Section
14 8209(a) (whether the account reflecting such employer contributions are
15 vested or unvested, and inclusive of unvested suspense accounts) shall be
16 pursuant to subsection 8503(d)(2). Any Ancillary Benefit Account
17 maintained under the Defined Contribution System on behalf of the member
18 as described in Section 8201(n) shall not be subject to transfer.

19 (2) Defined Contribution System Credited Service. Effective
20 as of the effective date of the transfer of the member's account from the
21 Defined Contribution System to the Retirement Fund under this Section
22 8503(d), the service for which the member's account is credited with
23 employer contributions under the Defined Contribution System (including
24 the service under the Retirement Fund attributable to the employee
25 contributions previously transferred from the Retirement Fund to the
26 Defined Contribution System pursuant to the member's election under
27 Section 8207), shall be credited to the member for purposes of determining

1 the member's years of credited service and basic retirement annuity under
2 the Retirement Fund in accordance with Section 8503. In connection with
3 credited service transferred from the Defined Contribution System to the
4 Retirement Fund under Section 8503(d)(1), a member's Section 8209(a)
5 Employer's Contribution account (whether the account reflecting such
6 employer contributions are vested or unvested, and inclusive of unvested
7 suspense accounts) shall be transferred to the member's Section 8164(b)
8 account (Employer's Contribution Reserve) under the Retirement Fund.

9 (3) Credited Service for Repayment of Defined Contribution
10 System Contributions. In the event that the Hybrid Plan member's account
11 under the Defined Contribution System was previously reduced by the
12 member's withdrawal of an amount from the member's account that is
13 attributable to contributions during the member's active participation in the
14 Defined Contribution System, the member shall be allowed to repay to the
15 Retirement Fund the amount of the withdrawal, adjusted for interest during
16 the period commencing on the date of the withdrawal and ending on the date
17 of the repayment, which repayment must be made in any combination of the
18 following: a single payment, transfer of Excess Account Balance, or
19 installments to the Retirement Fund in accordance with the Title 2, Division
20 1, Chapter 3, Article 1, of the Guam Administrative Rules, as amended. If
21 such withdrawn portion of the member's account is not timely repaid in full
22 to the Retirement Fund, then the service that otherwise would be credited
23 under the Retirement Fund for service during the member's active
24 participation in the Defined Contribution System shall be reduced to account
25 for the service to which the withdrawal relates, in accordance with rules,
26 regulations, and procedures as promulgated or approved by the Board.

1 (4) Credited Service for Repayment of Prior Retirement
2 Fund Contributions. In the event that the member's account under the
3 Defined Contribution System was previously reduced by the member's
4 withdrawal of an amount from the member's account that is attributable to
5 the prior transfer of employee contributions from the Retirement Fund to the
6 Defined Contribution System (specifically, considering only the portion of
7 the account derived from the transferred Member's Contribution Reserve,
8 and not the Employer's Contribution Reserve) pursuant to the member's
9 election under Section 8207, the member shall be allowed to repay to the
10 Retirement Fund the amount of the withdrawal, adjusted for interest during
11 the period commencing on the date of the withdrawal and ending on the date
12 of the repayment, which repayment must be made in any combination of the
13 following: a single payment, transfer of Excess Account Balance, or
14 installments to the Retirement Fund in accordance with the Title 2, Division
15 1, Chapter 3, Article 1, of the Guam Administrative Rules, as amended. If
16 such withdrawn portion of the member's account is not timely repaid in full
17 to the Retirement Fund, then the service that otherwise would be credited
18 under the Retirement Fund for service during the member's prior
19 participation in the Retirement Fund shall be reduced to account for the
20 service to which the withdrawal relates in accordance with rules, regulations,
21 and procedures as may be promulgated or approved by the Board.

22 **Section 8504. Transfer of Member Accounts from Defined**
23 **Contribution System; Transfer of Excess Account Balance, If Any**

24 (a) In connection with credited service transferred from the
25 Defined Contribution Retirement System to the Retirement Fund under
26 Section 8503(d)(1), a member's Member Account balances in the Defined
27 Contribution System shall be transferred to the Hybrid Retirement System in

1 accordance with this Section.

2 (b) An amount equal to the lesser of a member's: (1) Section 8208
3 and Section 8209.1(a) account balances, if any; or (2) actuarial cost of
4 credited service, shall be transferred to the Hybrid Retirement System as set
5 forth in this subsection 8504(b). The actuarial cost of credited service for a
6 member transferring to the Hybrid Plan shall be funded first from the
7 member's Section 8209.1(a) account, if any, and applied to the member's
8 Section 8164(a) Member's Contribution Reserve; any further amounts
9 needed to fund up to the actuarial cost of credited service shall be funded
10 next from the member's Section 8208 pre-tax account and applied to a pre-
11 tax subaccount in the member's Section 8164(a) Member's Contribution
12 Reserve. Excess Account Balance, if any, attributable to a member's
13 Section 8209.1(a) account shall be transferred to the member's post-tax
14 account in the Deferred Compensation Program, except for amounts
15 designated by the member to be applied to repay prior partial withdrawals
16 from the member's account in accordance with Section 8503(d)(3). Excess
17 Account Balance, if any, attributable to a member's Section 8208 Member
18 Contribution Account shall be transferred to the member's pre-tax account
19 in the Deferred Compensation Program, except for amounts designated by
20 the member to be applied to repay prior partial withdrawals from the
21 member's account in accordance with Section 8503(d)(3).

22 (c) An amount equal to the member's Section 8209.1(b) account
23 (Rollover Employer's Contributions from Section 8164(b), also referred to
24 as the Transfer Incentive Reserve) shall be transferred to the member's pre-
25 tax account in the Deferred Compensation Program, except for amounts
26 designated by the member to be applied to repay prior partial withdrawals
27 from the member's account in accordance with Section 8503(d)(3).

1 **Section 8505. Hybrid Plan Member Disability Retirement**

2 **Annuity**

3 (a) Amount of Disability Retirement Annuity. Notwithstanding
4 the otherwise applicable formula under Section 8125 or other successor
5 provision, the amount of basic disability retirement annuity for a Hybrid
6 Plan member under the Retirement Fund shall be fifty percent (50%) of
7 average annual salary based on the average three (3) highest annual salaries
8 received the member during that member's years of credited service.
9 For purposes of defining "salary" and "average annual salary" under Section
10 8104(i) and (j), respectively, with respect to the determination of the basic
11 disability retirement annuity payable to a Hybrid Plan member, the term
12 "salary" shall mean the member's base salary excluding all non-base
13 compensation.

14 (b) Automatic Increases in Annuity for Disability Retirement
15 Annuity. Any Hybrid Plan member receiving a recomputed disability
16 retirement annuity under the Retirement Fund shall receive each year on the
17 anniversary date of the member's retirement or entitlement, an automatic
18 sliding scale increase in the member's annual basic disability retirement
19 annuity as applicable under the Retirement Fund pursuant to Section 8129 or
20 other successor provision.

21 **Section 8506. Hybrid Plan Member Death and Survivors Benefits**

22 The death benefit and survivor annuity provisions in connection with
23 a member's death under Sections 8131-8135 or other successor provisions
24 shall be applicable to Hybrid Plan members in a manner no different than the
25 application to members who are not Hybrid Plan members.

26 **Section 8507. Hybrid Plan Member Contributions to Fund**

27 The member contribution provisions under Section 8136 or other

1 successor provision shall be applicable to Hybrid Plan members in a manner
2 no different than the application to members who are not Hybrid Plan
3 members. However, notwithstanding that the contributions by Hybrid Plan
4 members are designated as member contributions and shall be administered
5 as member contributions under Section 8136, such contributions shall be on
6 a mandatory basis deducted from the member's base salary and paid by the
7 employer in lieu of contributions by the member, and shall constitute pre-tax
8 "pick-up" employer contributions for purposes of determining the income
9 tax treatment of such contributions under Section 414(h) of the United States
10 Internal Revenue Code.

11 **Section 8508. Deferred Compensation Program**

12 In accordance with Section 8308, the employer shall deduct and credit
13 Hybrid Plan member contributions under the Deferred Compensation
14 Program in an amount equal to one percent (1%) of the member's base
15 salary. However, notwithstanding that the contributions by Hybrid Plan
16 members are designated and shall be administered as member contributions
17 under Section 8308, such contributions shall be on a mandatory basis
18 deducted from the member's base salary and paid by the employer in lieu of
19 contributions by the member, and shall constitute pre-tax "pick-up"
20 employer contributions for purposes of determining the income tax treatment
21 of such contributions under Section 414(h) of the United States Internal
22 Revenue Code.”

23 **SECTION 4. Rules and Regulations.** No later than December 31, 2014,
24 the Board of Trustees of the Retirement Fund shall approve such plan documents,
25 rules, regulations, administrative procedures and forms at it may deem necessary
26 and appropriate to implement the Hybrid Retirement System under this Article 5.
27

1 **SECTION 5 Social Security Option.** In the event that the Government of
2 Guam is permitted by the Federal Government to enter into voluntary agreements
3 with the Social Security Administration to extend Social Security coverage to
4 Government of Guam employees, the Fund shall within ninety (90) days of such
5 permission submit a plan to *I Liheslatura* and *I Maga Lahen Guahan* to incorporate
6 social security as a component of retirement for employees who are not members
7 of the Defined Benefit Plan within one year. Once submitted, the plan shall be
8 subject to the approval *I Liheslatura*.

9 **SECTION 6. Effective Date.** Except as otherwise provided herein, this
10 Act shall take effect upon enactment.

11 **SECTION 7. Severability.** If any provision of this Act or its application to
12 any person or circumstance is found to be invalid or contrary to law, such
13 invalidity shall not affect other provisions or applications of this Act which can be
14 given effect without the invalid provisions or applications, and to this end the
15 provisions of this Act are severable.