



Representative Mariano Taitano

Eighteenth Commonwealth of the Northern Marianas Legislature

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Chairman

Special Committee NMI Retirement

SPECIAL COMMITTEE REPORT NO. 18-2

February 21, 2013

RE: H.B. NO. 18-12

The Honorable Speaker Joseph P. Deleon Guerrero
Speaker of the House of Representatives
Eighteenth Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Special Committee on Retirement to which House Bill No. 18-12 was referred entitled:

"To amend Public Law 17-82 to clarify those provisions necessary to expedite the refunds and prevent any further frustration of the process."

begs leave to report as follows:

I. RECOMMENDATION:

Pursuant to considerable discussion, your Special Committee recommends that House Bill No. 18-12 be passed by the House in its present form.

II. ANALYSIS:

A. Purpose:

The purpose of this Act is to clarify provisions in Public Law No. 17-82 so as to expedite the refunds and prevent any further frustration of the process in withdrawing employee contributions for Class I and II Define Benefit members.

HOUSE CLERK'S OFFICE

RECEIVED BY *[Signature]*
DATE *2/25/13* TIME *11:26am*

B. Committee Findings:

Your Special Committee finds that the Government of the Commonwealth of the Northern Mariana Islands has failed to remit its required payments in employer contributions to the Northern Mariana Islands Retirement Fund. The Special Committee further finds that the CNMI government has provided very generous and expensive retirement benefits to its members. Member benefits have expanded over the years as a result of numerous statutes enacted for that purpose.

Furthermore in providing great benefits to government employees, the government added to the burden of the retirement system by diverting revenues from and transferring costs to the Fund. The Special Committee finds that the practice of adding to member benefits while siphoning off dedicated retirement revenues has exacerbated the government's liability to the Fund, and has contributed to the explosion in the overall unfunded liability of the Fund.

The government owes the Retirement Fund an estimated cost of approximately \$375 Million, which now has an unfunded liability at roughly one and a half billion dollars. Roughly 3,000 retirees and 4,000 active members do or will rely on the Fund for financial security. The Committee finds that an increase in benefits and reduction in revenues led the Board of Trustees of the Fund to take the drastic and unprecedented action of refusing to process retirement applications in November of 2007. Furthermore, the Commonwealth Superior Court issued a judgment in Civil Action No. 06-0367, finding that the Commonwealth is obligated to pay the Fund \$317,492,291 as of November 10, 2010. Your Special Committee finds that the Government lacks the financial resources to pay off the present unfunded liability, and that a reform plan is necessary to restore the system to a more sound financial footing.

In addition to the Fund's unwillingness to process retirement applications, on April, 17, 2012 the Retirement Fund filed for Chapter Eleven Bankruptcy in U.S. District Court of the Commonwealth of the Northern Marianas.

Your Special Committee further finds that part of the reason for the lack of contributions to the Fund is an excessive government payroll. Requiring an annual reduction in the number of employees as expressed in terms of overall expenditures will reduce the financial pressure of making timely employer contributions to the Fund. Simply put, the fewer government employees, the lower the overall employer contribution.

Additionally, your Special Committee finds that in the annual appropriations act, the legislature shall establish ceilings on the number of persons that may be employed by each branch, department, agency, authority, and public corporation of the Commonwealth to which public funds are appropriated. Except upon specific approval by joint resolution of the legislature, no public funds may be expended for

personnel in excess of the ceilings so established.

Your Special Committee finds that the Commonwealth Government faces an enormous unfunded government obligation to participants in the retirement system. Therefore, your Special Committee finds that it is imperative that the Members of the 18th Northern Marianas Commonwealth Legislature take proper steps in affording members of the retirement system the opportunity to withdraw their money. Furthermore, Your Special Committee finds that the 17th Commonwealth Legislature took proper strides to assist the life span of the Retirement fund while giving members of the Define Benefit Plan an opportunity to take their monies and invest them however they believe is appropriate. Your Special Committee finds that it is important that certain amendments are made to the existing law (P.L. 17-82) to allow a smoother transition in getting monies to members of the Define Contribution Plan.

Your Special Committee finds that only approximately 125 of the 1,700 applicants had received 25% of their employee contributions while the majority is left in limbo as to when their contributions would be remitted to them. Therefore, your Special Committee finds that the intent of this Act will assist the Retirement Fund but most importantly assist Define Benefit Plan members in receiving monies belonging to them.

Your Special Committee finds that for several years now the Commonwealth Government has been unable to follow a fiscally sound deficit reduction program, as mandated in Article X, Section 6 of the Commonwealth Constitution.

C. Legislative History:

House Bill No. 18-12 was prefiled on February, 6, 2013, by Representative Francisco S. Dela Cruz and then introduced in session on February 11, 2013. House Bill No. 18-12 was subsequently referred to the House Special Committee on Retirement for deliberation and action.

D. Public Hearing:

None.

E. Cost Benefit:

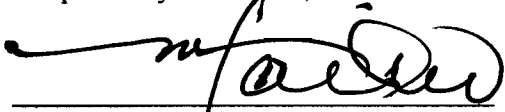
House Bill No. 18-12 will allow the Retirement Fund to concentrate on its obligations to its members in investing the revenues owed to them by our central government and not continue to fend off would be legislations that will only continue to burden the Fund. The Special Committee believes that by amending Public Law No. 17-82 the long term survival of the Northern Mariana Islands Retirement Fund and the transition to the Federal "Social Security" for current and future government employees will greatly decrease future unfunded liabilities to the Retirement Fund by

the Commonwealth Government. Furthermore, your Special Committee finds that by releasing monies owed to members of the Define Benefit Plan new monies will be realized within our local economy, therefore triggering buying power for the residents of the Commonwealth and building economic activity in our ailing economy.

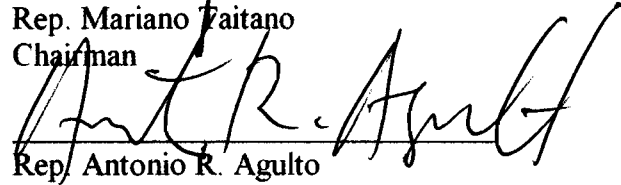
III. CONCLUSION:

The Committee is in accord with the intent and purpose of House Bill No. 18-12, and recommends passage of House Bill No. 18-12 in its present form.

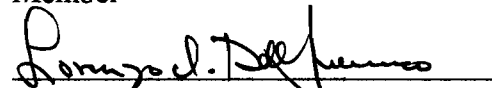
Respectfully submitted,



Rep. Mariano Vaitano
Chairman

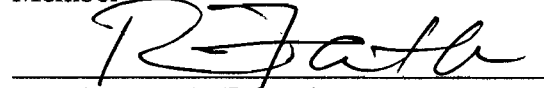


Rep. Antonio R. Agulto
Member

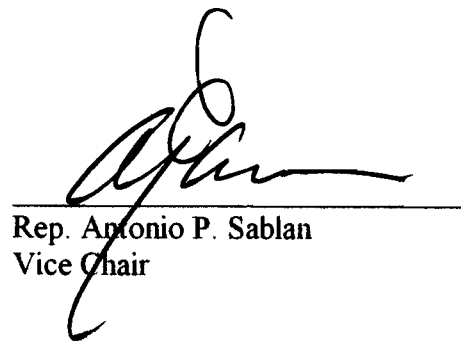


Rep. Lorenzo I. Deleon Guerrero
Member

Rep. Christopher D. Leon Guerrero
Member



Rep. Ramon A. Tebuteb
Member

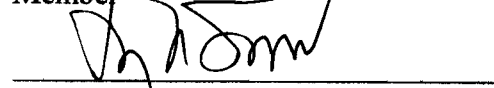


Rep. Antonio P. Sablan
Vice Chair

Rep. Trenton B. Conner
Member

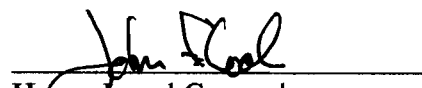


Rep. Rafael S. Demapan
Member



Rep. Teresita A. Santos
Member

Reviewed By:



House Legal Counsel

A BILL FOR AN ACT

To amend Public Law 17-82 to clarify those provisions necessary to expedite the refunds and prevent any further frustration of the process.

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

1 **Section 1. Findings and Purpose.** The Legislature finds that Public Law 17-82
2 was enacted as part of many steps to begin reforming and saving the Defined Benefit
3 Retirement Plan for existing members. There are provisions in that law that are being
4 interpreted incorrectly by the Northern Mariana Islands Retirement Fund (“NMIRF”),
5 which is creating undue burden to employees due to increased deductions and delaying
6 the refunds that are rightfully the property of those active and inactive members. The
7 purpose of this measure is to clarify those provisions so as to expedite the refunds and
8 prevent any further frustration of the process.

9

10 **Section 2. Amendments.**

11 (a) Section 201 of Title 1, Division 8, Part 3 is amended as follows:

12 Defined Benefit Plan, Right to Terminate Membership.

13 Notwithstanding any other provision of law, Class I or Class II members
14 of the Defined Benefit Plan, active or inactive and not retired from
15 government service, may elect to voluntarily terminate membership in the
16 fund and shall enter the federal insurance system commonly known as the
17 “Social Security” upon its extension to ~~offers~~ officers and employees of the
18 Commonwealth government. Any ~~employee~~ member who elects to terminate
19 membership in the fund shall receive his/her employee contribution with
20 regular interest without penalty and without separating *from government*

1 service.

2

3 (b) Section 202(b) of Title 1, Division 8, Part 3 is amended as follows:

4 Termination of Membership and Withdrawal of Contributions.

5 Within 30 days of approval submission to the NMIRF of the members
6 request to terminate membership in the Defined Benefit Plan, the NMIRF
7 Administrator or its successor shall disburse 25% 50% of the total employee
8 Defined Benefit Plan contributions with interest calculated based on
9 applicable statutory provisions for Class I or Class II members to the
10 employees members electing to terminate membership in the Defined Benefit
11 Plan. The effective date of this act shall be considered the first day for those
12 who have already submitted their applications. The balance shall be disbursed
13 within 90 days. In effect, those members who have already received 25% of
14 their contributions shall receive an additional 25% within 30 days, while those
15 who have applied but not received any contributions as of the effective date of
16 this act shall receive 50% within 30 days. Provided that if the records in the
17 NMIRF are such that immediate disbursement of employee contributions are
18 difficult because of deficient employee contributions or inability to
19 immediately calculate accrued interest, the NMIRF shall disburse withdrawals
20 based on amounts actually contributed as per NMIRF records and defer any
21 remaining balance including interest accrued until such future date after the
22 NMIRF has reconciled and resolved the correct employee contribution
23 amounts including interest calculations.

24 Members eligible to terminate their membership must submit their
25 application within 30 days of the effective date of this act or maintain their
26 membership with the Defined Benefit Plan. Provided that those members who
27 have pending retirement applications, but have not begun receiving benefits,
28 may rescind their applications and choose to withdraw employee
29 contributions. In the alternative, the NMIRF may enter into an agreement

1 with such member, to begin receiving their annuities based on actual
2 employee and employer contributions received by the NMIRF. Any benefit
3 deferred shall be recalculated and paid upon payment of deficient
4 contributions.

5

6 (c) Section 203(a) of Title 1, Division 8, Part 3 is amended as follows:

7 Contributions to the Defined Benefit Plan.

8 The obligation of the CNMI agencies and instrumentalities to withhold
9 and remit the employee's portion to the employee's defined benefit account
10 shall cease upon the Class I or Class II member's submission to ~~and~~
11 ~~acceptance~~ by the Retirement Fund Administrator or its successor of the form
12 required by section 202(a). The government obligation to withhold and remit
13 the employee's portion to the employee's defined benefit account shall
14 continue ~~in~~ with respect to employees who do not terminate membership in
15 the Defined Benefit Plan.

16

17 (d) Section 205 of Title 1, Division 8, Part 3 is amended as follows:

18 Defined Contribution Plan, Contributions.

19 The Commonwealth government's obligation to remit the employer's
20 contribution to the Defined Contribution Plan shall continue to be paid at 4
21 percent unless the employee ceases to make his/her employee contributions.
22 However, the government obligation to withhold and remit the employee's
23 portion to the employee's defined contribution account shall continue unless
24 ceased voluntarily by the employee. Notwithstanding 1 CMC §8466(a) & (b),
25 members of the defined contribution plan may elect to withdraw his/her
26 vested balance, valued as of the last valuation date. Provided further that if a
27 participant requests funds from the employer 4% contribution account, and
28 he/she is not fully vested, that forfeiture rules will apply. Forfeited funds may
29 be credited to the appropriate agencies' forfeiture account to be used to offset

1 future 4% employer contributions.

2

3 **Section 3. Severability.** If any provision of this Act or the application of any
4 such provision to any person or circumstance should be held invalid by a court of
5 competent jurisdiction, the remainder of this Act or the application of its provisions to
6 persons or circumstances other than those to which it is held invalid shall not be affected
7 thereby.

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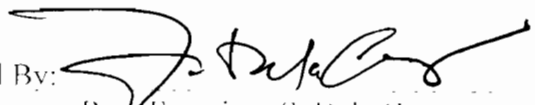
9 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not
10 be construed as affecting any existing right acquired under contract or acquired under
11 statutes repealed or under any rule, regulation, or order adopted under the statutes.
12 Repealers contained in this Act shall not affect any proceeding instituted under or
13 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
14 or in any way modifying, any liability, civil or criminal, which shall already be in
15 existence on the date this Act becomes effective.

16

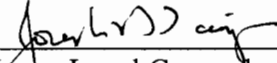
17 **Section 5. Effective Date.** This Act shall take effect upon its approval by the
18 Governor or becoming law without such approval.

Prefiled: 2/6/13

Date:

Introduced By: 
Rep. Francisco S. Dela Cruz

Reviewed for introduction purposes by:


House Legal Counsel