



The Senate
NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500129
SAIPAN, MP 96950

AMENDED *Adopted 4/10/24 CCB*
STANDING COMMITTEE REPORT NO. 23-81
Date: April 9, 2024
RE: House Bill 23-104, HD1

Honorable Edith E. DeLeon Guerrero
President of the Senate
Twenty-Third Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Madam President:

Your Committee on Fiscal Affairs, to which was referred House Bill 23-104, HD1, entitled:

“To appropriate \$5,236,000.00 of the dividends collected by the Commonwealth Economic Development Authority (CEDA) from the Commonwealth Utilities Corporation (CUC) for the Twenty-Five Percent (25%) retirees’ pension for all retirees of the Commonwealth of the Northern Mariana Islands,”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion and deliberation, your Committee recommends the passage of the proposed legislation in the form of House Bill 23-104, HD1, Senate Draft 1.

II. ANALYSIS:

A) Purpose:

The purpose of House Bill 23-104, HD1 is to appropriate \$5,236,000.00 of the dividends collected by the Commonwealth Economic Development Authority (CEDA) from the Commonwealth Utilities Corporation (CUC) for the twenty-five percent (25%) retirees’ pension for all retirees of the Commonwealth of the Northern Mariana Islands.

B) Committee Findings:

Your Committee finds that pursuant to the Settlement Agreement, the CNMI government is mandated to remit the 75% retiree pension obligation of \$34 million in the fiscal year 2024, ~~\$33~~ \$32 million in the fiscal year 2025, and ~~\$32~~ \$30 million in the fiscal year 2026 based on the actuarial valuation prepared by Milliman Inc., the Settlement Fund's consultant. It is important to note that the remittance of these funds does not encompass the voluntary remittance of the 25% retirees' pension benefit of approximately \$13-15 million annually.

Your Committee further finds that, as publicized in local newspaper articles, Governor Arnold I. Palacios has informed Trustee Joyce C.H. Tang that should the legislature not agree to the passage of pending legislation to aid the financial need of this matter, particularly House Bill 23-104, HD1, that the 25% pension of the retirees would be suspended beginning April 15, 2024 until such time that funding is identified to remit the necessary funds to fulfill the 25% retirees' pension. As proposed, House Bill 23-104, HD1 intends to appropriate \$5,236,000.00 of the dividends collected by the Commonwealth Economic Development Authority (CEDA) from the Commonwealth Utilities Corporation (CUC) as payment for the 25% retirees' pension for all retirees of the Commonwealth of the Northern Mariana Islands.

Your Committee held an emergency Committee Meeting, under Rule 3, Section 5 of the Interim Rules of the Senate, on Tuesday, April 9, 2024, and was joined by the presence of some of CEDA's management team to deliberate on House Bill 23-104, HD1. Although CEDA maintains firm on their decision that the dividends collected from CUC should be used for purposes of revenue-generating capital improvement projects, they are also cognizant of the financial strain of the CNMI government to meet the continued remittance of the 25% retirees' pension. Furthermore, communication by the Office of the Attorney General has indicated that the enactment of House Bill 23-104 has no apparent legal impediment.

However, your Committee acknowledged that certain amendments were necessary based on further deliberation stemming from the discussions with CEDA to reflect the following:

1. Future appropriation of dividends remitted by CUC to CEDA is not limited to any one senatorial district and the use of these funds is subject to the approval by both houses of the legislature and not the respective senatorial districts;
2. Although CEDA strongly agrees to the repayment of the \$5,236,000.00, it is the position of your Committee that since the proposed legislation does not indicate any repayment guidelines and potential interest of the repayment of these funds an amendment to incorporate such provisions would essentially be considered a public debt of the government, of which the 25% retiree pension is not an obligation of the CNMI government, as clarified by the Committee's Legal Counsel; and
3. If enacted, the appropriation of \$5,236,000.00 for the 25% retirees' pension would only cover up to the month of August 2024 and not exceed the current fiscal year.

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Furthermore, aside from House Bill 23-104, HD1, your Committee found it necessary to discuss House Local Bill 23-08 with CEDA. HLB 23-08 appropriated \$1,000,000.00 of the dividends collected by CEDA from CUC to the Northern Marianas College for the construction of Finasisu Lane, including but not limited to the road construction, water lines, wastewater lines, etc. CEDA shared that it opposed the legislation. However, upon the House's reliance on the AG's opinion that the bill does not violate the Constitution, the bill was ultimately passed by the Saipan and Northern Islands Legislative Delegation. The passage of the bill in the form of a local law is problematic. The dividends that CEDA receives from CUC are the Commonwealth funds and not local funds of the Third Senatorial District. As such, any future appropriation of the CUC dividends to CEDA shall be in a House Bill format, not a House Local Bill format, and such bill must be consistent with the authorized use of the funds.

Your Committee further finds that the timing of this proposed legislation came at an unprecedented timeline placing pressure on the legislature to swiftly entertain this measure to identify funds to satisfy the 25% pension of the retirees'. During deliberation, CEDA indicated that no official request was made by the House prior to their passage of the proposed legislation. Additionally, CEDA was requested how soon these funds would be liquidated in order to pay for the retirees' 25% pension. CEDA shared that even with the passage of this proposed legislation that the funds are not readily available. Furthermore, CEDA indicated that the availability of these funds would be dependent on their Market Advisor to determine how soon access to these funds would be available due to the maturity of the funds ranging between 6-12 months. Additionally, CEDA added that should they liquidate these funds prior to maturity that they would face the risk of credibility and imposed penalties.

During the meeting, no member objected to the passage of the proposed legislation, as amended, and was adopted in the form of House Bill 23-104, HD1, Senate Draft 1.

C) Legislative History:

House Bill 23-104 was formally introduced by Representative Blas Jonathan "BJ" T. Attao on March 28, 2024. The House of Representatives passed the proposed legislation on First and Final Reading during its Sixth Day, Third Regular Session in the form of House Bill 23-104, House Draft 1 on March 28, 2024. House Bill 23-104, HD1 was transmitted to the Senate on March 28, 2024, and subsequently referred to the Senate Standing Committee on Fiscal Affairs for disposition.

D) Public Hearing and Comment:

1. Public Hearing. No public hearing was scheduled for House Bill 23-104, HD1. However, an Emergency Committee Meeting, which is open to the public, was held on April 9, 2024. See below for further details.

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2. Committee Meeting. Pursuant to Rule 3, Section 5 of the Interim Rules of the Senate, House Bill No. 23-104, HD1 made its first appearance during an Emergency Committee Meeting that convened on April 9, 2024. The Committee Meeting notices and agenda were officially posted on April 8, 2024, on various legislative forums and social media sites to invite members of the general public to provide comments as indicated under *Item No. V. Public Comments* of the Committee Agenda. Public comment(s) were received by the following:
 - a. Manual A. Sablan, Executive Director, Commonwealth Economic Development Authority
3. Written Comment. No formal written comments were provided to the Committee.

E) Estimated Fiscal Cost:

The enactment of House Bill 23-104, HD1, as amended, would essentially affect the source of funds intended to aid potential revenue generating capital improvement projects for the Commonwealth. However, the allocation of these funds would provide the necessary financial means to support the retirees' 25% pension, which is collectively supported by the administration, legislature, and the Commonwealth Economic Development Authority.

F) Summary of Committee Amendments:

Your Committee agreed to the proposed amendments, as follows:

1. Section 1. Findings and Purpose. Deleted language referring to the repayment of the \$5,236,000.00 and specific restriction of future use of these funds, beginning on page 2, lines 5-10, to read:

“Furthermore, the Legislature finds that the Administration, through its reprogramming authority, has been funding twenty-five percent of the retirees’ pension. The Legislature finds that those funds are becoming scarce, placing the Administration in a situation where it must decide whether to cut further expenses to meet its obligations. The Legislature is well aware that funding retirees’ pension for all retirees of the CNMI cannot be compromised and cutting additional hours from the hard-working employees of the Commonwealth Government will be detrimental to their livelihood. ~~Last, the Legislature finds that the Secretary of Finance shall remit payments to the Commonwealth Economic Development Authority for the repayment of the \$5,236,000.00. The intent of the Legislature is that these funds retain their local nature, and after repayment, these funds may be used in the future to address exclusively local matters of the Third Senatorial District.~~”

2. Section 2. Appropriation. Deleted language referring to a legislative delegation's specific use of future funds collected by CEDA from CUC, beginning on page 2, lines 17-18, to read:

“Notwithstanding any provision(s) of law, statutes, rules or regulations to the contrary and pursuant to the authority vested to the House of Representatives ~~(more specifically to the Saipan and Northern Islands Legislative Delegation (SNILD))~~ to appropriate dividends collected by CEDA from CUC), the Legislature through the House of Representatives hereby appropriates \$5,236,000.00 of the dividends collected by CEDA from CUC to pay 25% of the retirees' pension, inclusive of all retirees of the Commonwealth of the Northern Mariana Islands.”

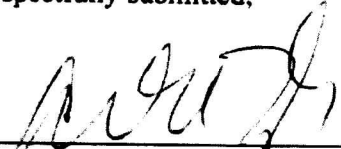
3. Section 3. Reprogramming. Deleted language referring to fiscal year limitation as these funds are to be expended by August 2024, beginning on page 3, lines 4-5, to read:

“Funds appropriated under this act shall not be reprogrammed for any other purpose ~~and notwithstanding any provision of law, all funds appropriated under this Act shall be without fiscal year limitation.~~”


III. CONCLUSION:

Your Committee agrees with the intent and purpose of the proposed legislation, as amended, and recommends passage in the form of House Bill 23-104, HD1, Senate Draft 1.


Respectfully submitted,



Senator Donald M. Manglona
Chairperson




Senator Corina L. Magofna
Vice Chairperson



Senator Celina R. Babauta
Member

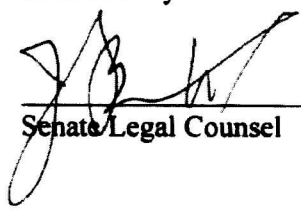
Senator Karl R. King-Nabors
Member



Senator Paul A. Manglona
Member

Senator Dennis C. Mendiola
Member

Reviewed by:



Senate Legal Counsel

TWENTY-THIRD NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2024

Third Regular Session, 2024

H. B. 23-104, HD1, SD1

A BILL FOR AN ACT

To appropriate \$5,236,000.00 of the dividends collected by the Commonwealth Economic Development Authority (CEDA) from the Commonwealth Utilities Corporation (CUC) for the Twenty Five Percent (25%) retirees' pension for all retirees of the Commonwealth of the Northern Mariana Islands.

**BE IT ENACTED BY THE 23RD NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Findings and Purpose. The Legislature finds that the Central Government of the Commonwealth of the Northern Mariana Islands is in dire need of revenue to pay for its obligations to its employees and inherited arrears to contracts that the government had entered into. The Legislature further finds that the Administration along with the Legislature had implemented a ten-hour work reduction for government employees. Additionally, the Legislature finds that the Administration has been using its reprogramming authority to pay for the constitutional obligation to the Public School System (PSS).

Furthermore, the Legislature finds that the Administration, through its reprogramming authority, has been funding twenty-five percent of the retirees' pension. The Legislature finds that those funds are becoming scarce, placing the

Administration in a situation where it must decide whether to cut further expenses in order to meet its obligations. The Legislature is well aware that funding retirees' pension for all retirees of the CNMI cannot be compromised and cutting additional hours from the hard-working employees of the Commonwealth Government will be detrimental to their livelihood. ~~Last, the Legislature finds that the Secretary of Finance shall remit payments to the Commonwealth Economic Development Authority for the repayment of the \$5,236,000.00. The intent of the Legislature is that these funds retain their local nature, and after repayment, these funds may be used in the future to address exclusively local matters of the Third Senatorial District.~~

Therefore, the intent of this Act is to appropriate dividends collected by the Commonwealth Economic Development Authority (CEDA) from the Commonwealth Utilities Corporation (CUC) to pay 25% of the retirees' pension. This includes all retirees of the Commonwealth of the Northern Mariana Islands.

Section 2. Appropriation. Notwithstanding any provision(s) of law, statutes, rules or regulations to the contrary and pursuant to the authority vested to the House of Representatives ~~(more specifically to the Saipan and Northern Islands Legislative Delegation (SNILD))~~ to appropriate dividends collected by CEDA from CUC), the Legislature through the House of Representatives hereby appropriates \$5,236,000.00 of the dividends collected by CEDA from CUC to pay

25% of the retirees' pension, inclusive of all retirees of the Commonwealth of the Northern Mariana Islands.

Section 3. Reprogramming. Funds appropriated under this act shall not be reprogrammed for any other purpose ~~and notwithstanding any provision of law, all funds appropriated under this Act shall be without fiscal year limitation.~~

Section 4. Expenditure Authority. The expenditure authority of the funds allocated under Section 2 of this Act shall be the Secretary of the Department of Finance.

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

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

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

Prefiled: 3/22/2024

Date: _____ Introduced by: /s/ Rep. Blas Jonathan "BJ" T. Attao
/s/ Rep. Vincent R. S. Aldan
/s/ Rep. Roman C. Benavente
/s/ Rep. Angelo A. Camacho
/s/ Rep. Diego V. F. Camacho
/s/ Rep. Joel C. Camacho
/s/ Rep. Vicente C. Camacho
/s/ Rep. Manny G. T. Castro
/s/ Rep. Marissa R. Flores
/s/ Rep. Julie M. A. Ogo
/s/ Rep. Malcolm J. Omar
/s/ Rep. Edwin K. Propst
/s/ Rep. Patrick H. San Nicolas
/s/ Rep. Edmund S. Villagomez

Reviewed for Legal Sufficiency by:

/s/ Joseph L.G. Taijeron, Jr. (3/22/2024)
House Legal Counsel

Reviewed for Legal Sufficiency (HD1) by:

/s/ Joseph M. Hallahan (3/28/2024)
House Legal Counsel