

SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 2010

H. L. I. NO. 17- 1

A HOUSE LEGISLATIVE INITIATIVE

To add a new Section 10 to Article X of the Constitution of the Commonwealth of the Northern Mariana Islands to authorize the Commonwealth to issue pension obligation bonds and for other purposes.

BE IT ENACTED BY THE SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings.** The Legislature finds:

2 (a) The Commonwealth has failed for several years to contribute its actuarially
3 required employer contributions to the Northern Mariana Islands Retirement Fund.

4 (b) According to the Fund, as of September 30, 2007, employer contributions
5 receivable from the CNMI Government exceed \$132,000,000, excluding penalties and
6 interest.

7 (c) The Fund has sued the Commonwealth to recover the contribution deficit, and
8 it is necessary and proper to help resolve that litigation by authorizing a new source of
9 funding to be tapped to pay off the deficit.

10 (d) The issuance of pension obligation bonds could eliminate the deficit and grant
11 the Retirement Fund a substantial sum of money to invest and compound returns over
12 time.

13 (e) The constitutional amendment proposed by this initiative authorizes
14 issuance of pension obligation bonds. Before any such bonds are actually issued, the
15 Commonwealth additionally must assess their feasibility. The feasibility of the bonds
16 depends upon bond market conditions, prevailing interest rates, and other 18 factors
17 that may change over time.

18 (f) Under current law the issuance of pension obligation bonds may be precluded
19 by Article X, Section 4, of the Constitution, because the amounts due relate to the

1 operating deficit. Article X, Section 4 limits the issuance of public debt in two ways: (1)
2 by prohibiting its use for operating expenses and (2) by limiting its total to no more than
3 ten percent (10%) of the aggregate assessed valuation of the real property within the
4 Commonwealth. Article X, Section 4 reads as follows:

5 **“Article X, Section 4: Public Debt Limitation.** Public
6 indebtedness other than bonds or other obligations of the government
7 payable solely from the revenues derived from a public improvement or
8 undertaking may not be authorized in excess of ten percent of the
9 aggregate assessed valuation of the real property within the
10 Commonwealth. Public indebtedness may not be authorized for
11 operating expenses of the Commonwealth government or its political
12 subdivisions.”

13 (g) The limitations in Article X, Section 4 should not preclude the
14 Commonwealth from addressing its obligations to the Retirement Fund. The proposed
15 initiative waives those limitations and substitutes other limitations, including the
16 requirement that the cumulative amount of the bonds not exceed the Commonwealth's
17 actuarially determined unfunded accrued liability to the Retirement Fund.

18 (h) The limitations in Article X, Section 3 will continue to apply to the bonds.
19 Those limitations serve as an additional protection for the public interest. Under Article
20 X, Section 3, the Commonwealth may not issue pension obligation bonds without the
21 affirmative vote of two-thirds of the members in each house of the legislature. Article X,
22 Section 3 reads as follows:

23 **“Article X, Section 3: Public Debt Authorization.** Public debt
24 may not be authorized or incurred without the affirmative vote of two-
25 thirds of the members in each house of the legislature.”

26 (i) Accordingly, the Seventeenth Northern Marianas Commonwealth
27 Legislature finds it is necessary and proper to amend the Constitution of the
28 Commonwealth of the Northern Mariana Islands to add a new Section 10 to Article X

1 (Taxation and Public Finance) to authorize the Commonwealth to issue pension
2 obligation bonds.

3 **Section 2. Legislative Initiative.** The Seventeenth Northern Marianas
4 Commonwealth Legislature, by the affirmative vote of three-fourths of the members of
5 each house present and voting, hereby proposes the following amendment to add a new
6 Section 10 to Article X of the Constitution of the Commonwealth of the Northern
7 Mariana Islands to be placed before the people for ratification at the next general election:

8 "A PROPOSED CONSTITUTIONAL AMENDMENT

9 To add a new Section 10 to Article X (Taxation and Public Finance) of the
10 Constitution of the Commonwealth of the Northern Mariana Islands to
11 authorize the Commonwealth to issue pension obligation bonds and for
12 other purposes.

13 **Section 10: Pension Obligation Bonds.** Upon the affirmative vote of
14 two-thirds of the members of each house of the Legislature, the Commonwealth
15 may issue pension obligation bonds in a cumulative amount (excluding refunding
16 bonds) not to exceed the government's liability to the retirement system. The net
17 proceeds of each bond issuance shall be deposited and invested along with other
18 monies in the defined benefit plan trust fund administered by the Northern
19 Mariana Islands Retirement Fund. The bonds issued under this section shall
20 comply with Section 3 of this Article and shall be exempt from Section 4 of this
21 Article."

22 **Section 3. Adoption and Transmittal.** The Speaker of the House and the
23 President of the Senate shall certify, and the Clerks of the House and Senate shall attest to
24 the passage of this Legislative Initiative. The House Clerk shall then cause the Initiative
25 to be transmitted to the Governor and the Board of Elections. Pursuant to Article XVIII,
26 Section 5 of the Commonwealth Constitution, the Board shall place this Legislative
27 Initiative, with the Findings and Purpose section herein, before the people of the

HOUSE LEGISLATIVE INITIATIVE NO. 17- 1

- 1 Commonwealth for ratification vote at the earlier of the next regular general election or
- 2 the next special election established by law.

Prefiled: 1/27/2010

Date: 1/25/2010

Introduced By: _____

Rep. Joseph P. DeLeon Guerrero

Reviewed for Legal Sufficiency by:

House Legal Counsel







