Seventeenth Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

_____ **Session, 2011** **H. L. I.** 17-5

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:

Section 1. Findings. The Legislature finds:

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

(b) The Commonwealth Superior Court issued a judgment in Civil Action No. 06-0367, finding the Commonwealth is obligated to pay the Fund $317,492,291 as of November 10, 2010.

(c) It is necessary and proper to help resolve the above mentioned litigation by authorizing the issuance of pension obligation bonds to generate revenues immediately which the Commonwealth can repay over time, as the bonds mature, thus lessening the immediate fiscal impact on the Commonwealth.

(d) The issuance of pension obligation bonds could grant the Retirement Fund a substantial sum of money to invest and compound returns over time in order to ensure the fiscal solvency and viability of the pension system.

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

(f) Under current law, the issuance of pension obligation bonds may be precluded by Article X, Section 4 of the Constitution because the amounts due relate to the operating deficit. Article X, Section 4 limits the issuance of public debt in two ways: (1) by prohibiting its use for operating expenses; and (2) by limiting its total to no more than ten percent (10%) of the aggregate assessed valuation of the real property within the Commonwealth. Article X, Section reads as follows:

> **Article X, Section 4: <u>Public Debt Limitation</u>. Public indebtedness other than bonds or other obligations of the government payable solely from the revenues derived from a public improvement or undertaking may not be authorized in excess of ten percent of the aggregate assessed valuation of the real property within the Commonwealth. Public indebtedness may not be authorized for operating expenses of the Commonwealth or its political subdivisions.**

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

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

Article X, Section 3: <u>Public Debt Authorization</u>. Public debt may not be authorized or incurred without the affirmative vote of two-thirds of the members in each house of the legislature.

(i) In the 2010 general election, House Legislative Initiative 17-1, HS1 was placed on the ballot for ratification by the voters of the CNMI to authorize the Commonwealth to issue a pension obligation bond. 11, 436 total registered voters participated in the voting process for HLI 17-1, HS1. However, only 4, 200 voted to ratify HLI 17-1, HS1, while 5,611 voted against it and 1, 599 voters left their ballots blank with respect to that initiative. The Legislature finds that there was insufficient time to

fully educate the voters about the mechanics of HLI 17-1, HS1 and the benefits to the Northern Mariana Islands Retirement Fund's Defined Benefit Plan members. As such, a re-introduction of this initiative is proper and beneficial so as to provide our voters another opportunity to be more educated about pension obligation bonds and to participate in process of sustaining the retirement fund program.

(j) Accordingly, the Seventeenth Northern Marianas Legislature finds it is necessary and proper to amend the Constitution of the Commonwealth of the Northern Mariana Islands to add a new Section 10 to Article X (Taxation and Public Finance) to authorize the Commonwealth to issue pension obligation bonds.

Section 2. Legislative Initiative.

The Seventeenth Northern Marianas Commonwealth Legislature, by the affirmative vote of three-fourths of the members of each house present and voting, hereby proposes the following amendment to add a new Section 10 to Article X of the Constitution of the Commonwealth of the Northern Mariana Islands to be placed before the people for ratification at the next general election or at the next special election established by law:

"A PROPOSED CONSTITUTIONAL AMENDMENT

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

1 **Section 10: Pension Obligation Bonds. Upon the affirmative**
2 **vote of two-thirds of the members of each house of the Legislature, the**
3 **Commonwealth may issue pension obligation bonds, the cumulative**
4 **amount of which shall not exceed the Commonwealth's actuarially**
5 **determined unfunded accrued liability to the Retirement Fund. The**
6 **net proceeds of each bond issuance shall be deposited and invested**
7 **along with other monies in a defined benefit plan trust fund**
8 **administered by the Northern Mariana Islands Retirement Fund. The**
9 **bonds issued under this section shall comply with Section 3 of this**
10 **Article and shall be exempt from Section 4 of this Article."**

1 **Section 3. Adoption and Transmittal.**

2 The Speaker of the House and the President of the Senate shall certify, and
3 the Clerks of the House and Senate shall attest to the passage of this Legislative
4 Initiative. The House Clerk shall then cause the Initiative to be transmitted to the
5 Governor and the Board of Elections. Pursuant to Article XVIII, Section 5 of the
6 Commonwealth Constitution, the Board shall place this Legislative Initiative,
7 with the Findings and Purpose section herein, before the people of the
8 Commonwealth for ratification vote at the earlier of the next regular general
9 election or the next special election established by law.

Prefiled: 4/6/11

Date: 4/06/2011 Introduced By: Rep. Joseph P. Deleon Guerrero

Reviewed for ~~Legal Sufficiency~~ Introductory Purposes only by:

House Legal Counsel