



Representative Mariano Taitano

Eighteenth Commonwealth of the Northern Marianas Legislature

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Chairman

Special Committee NMI Retirement

SPECIAL COMMITTEE REPORT NO. 18-21

May 14, 2013

RE: H.B. NO. 18-050

The Honorable 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. 18-050 was referred entitled:

"To authorize the Commonwealth Development Authority to issue pension obligation bonds on behalf of the Commonwealth in an amount up to Three Hundred Million U.S. Dollars to pay the Commonwealth Governments obligation to the Northern Mariana Islands Retirement fund."

begs leave to report as follows:

I. RECOMMENDATION:

Pursuant to considerable discussion, your Special Committee recommends that House Bill No. 18-050 be passed by the House in the form of House Draft 1.

II. ANALYSIS:

A. Purpose:

The purpose of this Act is to authorize the Commonwealth Development Authority (CDA) to issue pension obligation bonds on behalf of the Commonwealth in an amount up to Three Hundred Million U.S. Dollars to pay the Commonwealth Government's obligation to the Northern Mariana Islands Retirement Fund.

HOUSE CLERK'S OFFICE

RECEIVED BY *[Signature]*

DATE 052013 TIME 12:25 pm

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. Your 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. The following are examples of the additional benefits given to government employees and members of the Fund.

1. Public Law 3-99 increased the benefit paid to members of the Retirement Fund.
2. Public Law 5-48 gave additional service credit to certain members.
3. Public Law 7-39 offered a generous Cost of Living Allowance (COLA) to annuitants.
4. Public Law 7-40 allowed for at least limited “double dipping” by government employees.
5. Public Law 8-24 added an overtime work service credit.
6. Public Law 8-30 established an early retirement incentive.
7. Public Law 8-31 provided for an additional COLA increase.
8. Public Law 8-39 granted additional prior service credit for certain members.
9. Public Law 9-25 refunded member-paid employer contributions.
10. Public Law 11-95 permitted retirees to receive survivor benefits in addition to other benefits.
11. Public Law 15-31 allowed a government employee to waive salary and continue receiving retirement benefits.
12. Public Law 15-61 prohibited the Fund from paying less than the full pension to retirees.
13. Public Law 15-98 authorized members with 15 years of service to withdraw their contributions.

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 following are samples of the additive burden the government has placed on the Funds financial strains:

1. Public Law 9-28 diverted amusement revenues from the Fund to a Man’Amko Center.
2. Public Law 10-19 transferred the Group Health and Life Insurance to the Retirement Fund.
3. Public Law 10-88 gave elected officials the right to waive their salary and continue receiving retirement benefits.
4. Public Law 11-2 allowed retirees in certain occupations to return to work for up to two years without losing benefits.

5. Public Law 14-98 exempted the Public School System (PSS) from the increase in contribution rate.
6. Public Law 15-15 suspended the employer contribution to the Fund for part of Fiscal Year 2006 and all of Fiscal Year 2007.
7. Public Law 15-24 established "Austerity Fridays," reducing the employee contribution but maintaining full benefits for those employees.

Your 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 \$320 Million, which now has an unfunded liability at roughly one half billion dollars. Roughly 3,000 retirees and 4,000 active members do or will rely on the Fund for financial security. Your Special 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 during the November 2012 election, the voters of the CNMI approved House Legislative Initiative No. 17-5 amending Article X of the N.M.I. Constitution to allow the issuance of pension obligation bonds and therefore, Your Special Committee finds that it is imperative that the Legislature acts accordingly and timely to allow a pension obligation bond to pay its obligations to the Retirement Fund and protect the future of its member's.

C. Legislative History:

House Bill No. 18-050 was prefiled on April 15, 2013 by Representative John Paul P. Sablan and then introduced in session. House Bill No. 18-050 was subsequently referred to the House Special Committee on Retirement for deliberation and action.

D. Amendment:

Technical amendments were made to House Bill No. 18-050 to reflect the intention that the Special Committee had agreed on.

E. Public Hearing:

None.

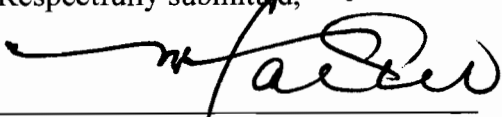
F. Cost Benefit:

House Bill No. 18-050 will not create an additional liability on the part of the Commonwealth, but authorizing the Commonwealth Development Authority to issue pension obligation bonds on behalf of the Commonwealth would only substitute a bond obligation for a judgment obligation.


III. CONCLUSION:

The Committee is in accord with the intent and purpose of House Bill No. 18-050, and recommends passage of House Bill No. 18-050 in the form of House Draft 1.

Respectfully submitted,



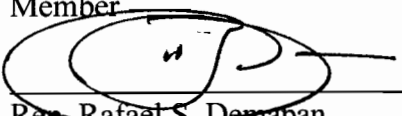
Rep. Mariano Taitano
Chairman



Rep. Antonio P. Sablan
Vice Chairman

Rep. Antonio R. Agulto
Member

Rep. Trenton B. Conner
Member

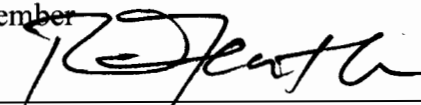


Rep. Rafael S. Demapan
Member

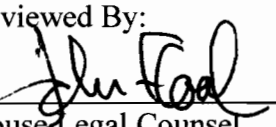
Rep. Lorenzo I. Deleon Guerrero
Member

Rep. Christopher D. Leon Guerrero
Member

Rep. Teresita A. Santos
Member



Rep. Ramon A. Tebuteb
Member

Reviewed By:


House Legal Counsel

Eighteenth Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

APRIL 18, 2013

First Special Session, 2013

H. B. 18-50, HD1

A BILL FOR AN ACT

To authorize the Commonwealth Development Authority to issue pension obligation bonds on behalf of the Commonwealth in an amount up to ~~two~~ three hundred million U.S. Dollars to pay the Commonwealth Government's obligation to Northern Marianas Islands Retirement Fund.

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

1 **Section 1. Short Title.** This Act may be cited as the Pension Obligation
2 Bond Authorization Act of 2013.

3 **Section 2. Findings and Purpose.** The Commonwealth Government
4 owes over \$300,000,000 in unpaid employer contributions to the Northern
5 Mariana Island Retirement Fund. This liability is in respect to Commonwealth
6 Government departments, agencies and governmental units whose personnel costs
7 are funded by annual appropriation acts. In addition to this amount, some
8 autonomous agencies and governmental corporations also have unpaid employer
9 obligations to the Northern Mariana Island Retirement Fund.

10 In the November 2012 election, the voters approved House Legislative
11 Initiative No. 17-5 amending Article X of the N.M.I. Constitution to allow the
12 issuance of pension obligation bonds in an amount which does not exceed the

1 Commonwealth's actuarially determined unfunded liability to the Northern
2 Mariana Islands Retirement Fund. An actuarial determination of the
3 Commonwealth government's unfunded liability to the Northern Mariana Island
4 Retirement fund will be necessary to determine that the proposed bond
5 authorization is within the limits established by H. L. I. No. 17-5.

6 The bond authorization proposed by this act serves a public purpose and
7 does not create an additional liability on the part of the Commonwealth. The
8 proposed authorization would only substitute a bond obligation for a judgment
9 obligation.

10 **Section 3. Public Debt Authorization.**

11 (a) This Act is a bond authorization act within the meaning of
12 Commonwealth Code, Title 4, Division 10, Chapter 4, Article 2.

13 (b) The Commonwealth Development Authority (CDA) on behalf of the
14 Commonwealth of the Northern Mariana Islands, is hereby authorized to issue, in
15 one or more series, at one time or from time to time up to three hundred million
16 dollars (\$300,000,000.00) worth of ~~tax-exempt~~ general obligation bonds of the
17 Commonwealth to fund the liability of the Commonwealth Government to the
18 Northern Marianas Island Retirement Fund.

19 (c) This authorization is subject to the terms and conditions of
20 Commonwealth Code, Title 4, Division 10, Chapter 4, Article 2 provided that
21 Section 10452 shall not apply insofar as it limits the amount of bonds or their
22 purpose in a manner inconsistent with the intent of Article X, Section 10 of the

1 Constitution of the Commonwealth and provided further that the bonds shall be
2 exempt from the portion of Section 10466 that provides for publication of notice
3 and an action or proceeding to contest the validity of the bonds or other matters
4 set forth therein, and the validity of the bonds and those other matters shall
5 nonetheless be conclusively presumed after issuance of the bonds and no court
6 shall have authority to inquire into such matters as provided in Section 10466.

7 (d) The CDA is further authorized to pledge as additional security for the
8 bonds, ~~any revenues~~ gross receipts tax as authorized by Commonwealth Code,
9 Title 4, Division 10, Chapter 4, Article 2, and on such priority and terms as the
10 Secretary of Finance shall determine to be in the best interests of the
11 Commonwealth. The transfer to and deposit of the gross receipts tax [or any other
12 revenues determined by the Secretary of Finance] in a special trust account
13 established pursuant to Section 10460 shall be until the balance in said special
14 trust account is at least equal to debt services due or to become due on the bonds
15 during the next succeeding twelve months.

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

21 **Section 5. Savings Clause.** This Act and any repealer contained herein
22 shall not be construed as affecting any existing right acquired under contract or

1 acquired under statutes repealed or under any rule, regulation, or order adopted
2 under the statutes. Repealers contained in this Act shall not affect any proceeding
3 instituted under or pursuant to prior law. The enactment of the Act shall not have
4 the effect of terminating, or in any way modifying, any liability, civil or criminal,
5 which shall already be in existence on the date this Act becomes effective.

6 **Section 6: Article X, Section 3 Certification.** Upon passage of this bill
7 by both houses of the Legislature, by a vote of at least two-thirds of the members
8 in each house, the Speaker of the House of Representatives and the President of
9 the Senate shall certify and the House Clerk and the Senate Legislative Secretary
10 shall attest to the passage of this bill by such two-thirds vote, in accordance with
11 Article X, Section 3 of the Commonwealth Constitution. Such certification and
12 attestation shall form a part of the engrossed bill for transmission to the Governor,
13 and shall serve as affirmation of the full faith and credit of the Commonwealth
14 Government with respect to this bond issuance.

15 **Section 6 7. Effective Date.** This Act shall take effect upon its approval
16 by the Governor, or its becoming law without such approval.

Prefiled: 4/15/13

Date: 4/10/13

Introduced By: /s/ Rep. John Paul P. Sablan
/s/ Rep. Roman C. Benavente
/s/ Rep. Trenton B. Conner
/s/ Rep. Joseph P. Deleon Guerrero
/s/ Rep. Christopher D. Leon Guerrero
/s/ Rep. Ramon A. Tebuteb
/s/ Rep. Ralph N. Yumul

Reviewed for Legal Sufficiency by:

/s/ John F. Cool
House Legal Counsel