

I MINA 'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) REGULAR SESSION

Bill No. 2.33 (LS)

Introduced by:

B. J. F. Cruz



AN ACT TO ADD A NEW ARTICLE 5 TO TITLE 4, CHAPTER 8, OF THE GUAM CODE ANNOTATED TO CREATE A NEW “HYBRID” RETIREMENT SYSTEM WITH MANDATORY PARTICIPATION BY GOVERNMENT OF GUAM EMPLOYEES HIRED AFTER DECEMBER 31, 2015; WITH OPTIONAL PARTICIPATION FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM PARTICIPANTS WHO ELECT TO TRANSFER TO THE NEW HYBRID PLAN IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED

BE IT ENACTED BY THE PEOPLE OF GUAM;

SECTION 1. Legislative Findings and Intent. *I Mina'trentai Dos Na*

Liheslaturan Guåhan finds that there are three separate retirement plans generally available to Government of Guam employees: (a) employees employed on or before September 30, 1995 were required to become members of the Retirement Fund (Defined Benefit Plan) under Article 1, Chapter 8, Title 4 of the Guam Code Annotated; (b) employees employed after September 30, 1995 were and remain required to become participants in the Defined Contribution Retirement System under Article 2, Chapter 8, Title 4 of the Guam Code Annotated; and (c) all employees, except those participating in a Government of Guam sponsored plan under Section 403(b) of the Internal Revenue Code, may voluntarily participate in the Deferred Compensation Program under Article 3, Chapter 8, Title 4 of the Guam Code Annotated.

I Mina'trentai Dos Na Liheslaturan Guåhan further finds that the Defined

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1 Contribution Retirement System was established in 1995 amid concerns and findings
2 by the Twenty-third Legislature that:

3 (a) The Actuarial Valuation of the Retirement [Defined
4 Benefit] Plan prepared by Deloitte & Touche as of September 30, 1993,
5 expressed concern that benefit levels are rather excessive in comparison
6 to most other government retirement systems.

7 (b) Benefit levels and retirement policy should be reviewed
8 and benefit levels should be adjusted in order to address specific
9 inequities, excessiveness, and desired policy objectives.

10 (c) In establishing benefits for a new plan, generally accepted
11 retirement income levels standards should be observed and the details
12 of any new plan must be considered thoroughly and a comprehensive
13 education and implementation plan must be developed.

14 Pub. L. No. 23-42:1 (Emphasis and bracketed text added).

15 *I Mina'trentai Dos Na Liheslaturan Guåhan* has continued to review benefit
16 levels and retirement policy in light of retirements of participants in the Defined
17 Contribution Retirement System, as well as the Defined Benefit Plan. The review
18 by *I Mina'trentai Dos Na Liheslaturan Guåhan* involved consideration of a
19 comprehensive and detailed study by Milliman, Inc. of alternative retirement plans
20 and arrangements, based upon the Actuarial Valuation under the Defined Benefit
21 Plan as of September 30, 2008, and updated through September 30, 2014. The
22 alternatives, which included cost comparisons between Social Security, the Defined
23 Contribution Retirement System, Social Security plus the Defined Contribution
24 Retirement System, and the Hybrid Plan herein, were prepared as part of an analysis
25 of funding requirements and retirement benefit levels of participants in the Defined
26 Contribution Retirement System and future government of Guam employees.

27 *I Mina'trentai Dos Na Liheslaturan Guåhan* finds that the benefit levels of

1 retirees of the Defined Contribution Retirement System, including those who
2 voluntarily participate in the Deferred Compensation Program, have not been
3 sufficient to maintain their standards of living in retirement. *I Mina'trentai Dos Na*
4 *Liheslaturan Guåhan* finds that an alternative retirement program that combines a
5 defined benefit “floor” of benefits, along with a salary reduction deferred
6 compensation program, is necessary to provide a reasonable opportunity for
7 government employees to maintain their standards of living in retirement, while also
8 balancing the government’s budgetary needs and obligations to active and retired
9 government employees and their survivors. *I Mina'trentai Dos Na Liheslaturan*
10 *Guåhan* finds that this combination of benefits under an alternative “Hybrid
11 Retirement System” is reasonable and prudent to balance the needs of government
12 employees as well as the government as a whole, and is a preferred alternative to a
13 continued Defined Contribution Retirement System plus Social Security, assuming
14 that Social Security eligibility is extended to government of Guam employees.

15 *I Mina'trentai Dos Na Liheslaturan Guåhan* intends to establish a new
16 “Hybrid Retirement System” to be comprised of participation in: (1) the preexisting
17 Retirement Fund that shall provide for an unreduced retirement defined benefit equal
18 to 1.75% of an employee’s average annual salary for each year of credited service at
19 retirement age 65; and (2) the preexisting Deferred Compensation Program
20 providing for a required pre-tax salary reduction contribution equal to one percent
21 (1%) of a member's base salary.

22 *I Mina'trentai Dos Na Liheslaturan Guåhan* intends that the new “Hybrid
23 Retirement System” shall require mandatory participation by all new employees
24 hired after December 31, 2015, with voluntary participation in certain circumstances
25 by participants with interests in the Defined Contribution Retirement System who
26 elect to participate in, and, in certain circumstances, transfer their account balances
27 to, the “Hybrid Retirement System” in accordance with regulations promulgated by

1 the Board of Trustees of the Retirement Fund.

2 **SECTION 2. Summary of Key Provisions in New Hybrid Retirement**

3 **System.** A new Article 5 as described in Section 3 of this Act shall be added to
4 Title 4 (Public Officers and Employees), Chapter 8 (Retirement of Public
5 Employees), of the Guam Code Annotated to create a “Hybrid Retirement System”
6 that is comprised of participation in the preexisting Retirement Fund and Deferred
7 Compensation Program. Subsections A – E of this Section 2 are provided only as a
8 convenient summary of the key provisions of the Hybrid Retirement System, and
9 are not meant to be codified in Chapter 8, Title 4 of the Guam Code Annotated.

10 **A. Participation in the Hybrid Retirement System**

11 (1) New Employees

12 With limited exceptions, new employees whose employment
13 commences on and after January 1, 2016 shall participate in the Hybrid
14 Retirement System.

15 (2) Former Employees Who Are Reemployed

16 (a) Reemployed employees who have retired under government of
17 Guam sponsored plans are prohibited from participating in the Hybrid
18 Retirement System. All reemployed employees who retired under the
19 Defined Benefit Plan, the Defined Contribution Retirement System, or the
20 Hybrid Retirement System are required to participate in the Defined
21 Contribution Retirement System.

22 (b) Reemployed employees who were members of the Defined
23 Benefit Plan and did not refund (withdraw) their employee contributions
24 upon separation from service shall resume membership in the Defined
25 Benefit Plan.

26 (c) Reemployed employees with interests in the Defined
27 Contribution Retirement System shall participate in the Defined

1 Contribution Retirement System, unless such eligible employees timely elect
2 to participate in the Hybrid Retirement System (and in some cases, transfer
3 their account balances) under the following circumstances:

4 (i) Such eligible employees who are reemployed during the
5 “Eligibility Window” commencing on January 1, 2016 and ending on
6 September 30, 2016, may, during the “Election Window” commencing
7 on April 1, 2016, and ending on September 30, 2016 (October 31, 2016,
8 for reemployment commencing during the month of September 2016),
9 elect to participate in the Hybrid Retirement System and transfer their
10 account balances in the Defined Contribution Retirement System to the
11 Retirement Fund for credited service effective as of January 1, 2017.

12 (ii) Such eligible employees who are reemployed after
13 September 30, 2016, may, within 30 days of their reemployment, elect
14 to participate in the Hybrid Retirement System, but may not transfer
15 their account balances in the Defined Contribution Retirement System
16 to the Retirement Fund for credited service.

17 (3) Disabled Participants Receiving Ancillary Benefits Under
18 Article 4

19 Disabled participants in the Defined Contribution Retirement System
20 who are receiving pre-retirement disability benefits under Title 4, Chapter 8,
21 Article 4 of the Guam Code Annotated during the “Eligibility Window”
22 commencing on January 1, 2016 and ending on September 30, 2016, may,
23 during the “Election Window” commencing on April 1, 2016 and ending on
24 September 30, 2016 (October 31, 2016, for participants who commence
25 receiving disability benefits during the month of September 2016), elect to
26 participate in the Hybrid Retirement System, effective upon the termination
27 of their disability benefits in connection with their retirement or their

1 reemployment with the Government of Guam, and transfer their account
2 balance in the Defined Contribution Retirement System to the Retirement
3 Fund for credited service.

4 (4) Current Employees

5 Employees participating in the Defined Contribution Retirement
6 System on December 31, 2015, may, during the "Election Window"
7 commencing on April 1, 2016 and ending on September 30, 2016, elect to
8 participate in the Hybrid Retirement System, and transfer the required portion
9 of their Defined Contribution Retirement System account balances to the
10 Retirement Fund thereunder, effective as of January 1, 2017. If the
11 participant's account has been reduced by any withdrawal, the participant may
12 repay the withdrawn amounts, plus interest, in order to reinstate full credited
13 service under the Hybrid Retirement System.

14 **B. Employee Contributions**

15 (1) Mandatory pre-tax employee contributions equal to 9.5% of the
16 member's base salary shall be made to the Retirement Fund and subject to the
17 management and administration of the Retirement Fund under Article 1,
18 Chapter 8, Title 4, of the Guam Code Annotated.

19 (2) Mandatory pre-tax employee contributions equal to one percent
20 (1%) of the member's base salary shall be made to the Deferred Compensation
21 Program and subject to the management and administration of the Deferred
22 Compensation Program under Article 3, Chapter 8, Title 4, of the Guam Code
23 Annotated.

24 **C. Employer Contributions**

25 Employer contributions on behalf of members under the Retirement Fund
26 shall be in accordance with applicable contribution requirements described in
27 Section 8137, Article 1, Chapter 8, Title 4 of the Guam Code Annotated, as amended.

1 **D. Member Retirement Benefits**

2 (1) The Retirement Fund shall provide a retirement annuity in an
3 amount equal to 1.75% of a member's average annual salary (the average of
4 the highest three annual base salaries, and where non-base compensation is
5 excluded) for each year of credited service (subject to a minimum \$1,200 per
6 year, and a maximum of 85% of average annual salary). The retirement
7 annuity shall be subject to annual increase based on specified fixed dollar
8 increments. A member shall be eligible to receive an unreduced retirement
9 annuity at age 65 (where the maximum benefit of 85% of average annual
10 salary is achieved with 49 years of credited service), and shall be eligible to
11 receive a reduced retirement annuity at age 55 and 25 years of credited service
12 (subject to a reduction of .5% per month for each month under age 65).

13 (2) The Deferred Compensation Program shall provide a retirement
14 benefit equal to a member's account balance at the time of distribution, which
15 account balance may be paid in the form of annuity, installment, or lump sum
16 payments as may be elected by the member.

17 **E. Survivor And Disability Benefits**

18 (1) Under the Retirement Fund, surviving spouses shall be eligible
19 for survivor benefits equal to 60% of a member's retirement annuity
20 (minimum \$1,200 per year). Surviving minor children shall be eligible for
21 surviving child benefits equal to \$2,880 per child (up to \$14,400 in the
22 aggregate). An additional lump sum benefit of \$1,000 also is available.
23 The survivor annuity (but not annuity for surviving minor children) shall be
24 subject to annual increase based on specified fixed dollar increments.

25 (2) Under the Retirement Fund, a member shall be eligible for a
26 disability retirement annuity equal to fifty percent (50%) of the member's

1 average annual salary. The disability annuity shall be subject to annual
2 increase based on specified fixed dollar increments.

3 **SECTION 3. Statutory Provisions Establishing Hybrid Retirement**

4 **System.** Article 5, Sections 8501-8508 are added to Chapter 8, Title 4 of the
5 Guam Code Annotated, to read as follows:

6 **“Section 8501. Definitions**

7 As used in this Article, unless the context otherwise requires:

8 (a) *Actuarial Cost of Credited Service* means a percentage of
9 historical base salary corresponding to the service for which a member's
10 account is credited with employer contributions under the Defined
11 Contribution Retirement System through the date preceding the member's
12 transfer to the Hybrid Retirement System. The applicable percentage shall
13 be specified by the Board based on an actuarial review of the cost of credited
14 service. The same percentage shall apply to all members.

15 (b) *Board of Trustees* or *Board* means the Board of Trustees of the
16 government of Guam Retirement Fund, which is responsible for the direction
17 and operation of the affairs and business of the Hybrid Retirement System.

18 (c) *Code* means the United States Internal Revenue Code of 1986,
19 as amended, and corresponding references to the Guam Territorial Income
20 Tax Code, as may be appropriate.

21 (d) *Deferred Compensation Program* means the government of
22 Guam Deferred Compensation Program established and operated in
23 accordance with Article 3 of this Chapter and inclusive of modifications in
24 the terms and conditions of the Deferred Compensation Program applicable
25 to the members of the Hybrid Retirement System under this Article 5.

26 (e) *Defined Contribution System* means the government of Guam
27 Defined Contribution Retirement System established and operated in

1 accordance with Article 2 of this Chapter and inclusive of modifications in
2 the terms and conditions of the Defined Contribution Retirement System
3 applicable to the members of the Hybrid Retirement System under this Article
4 5.

5 (f) *Director* means the Director of the Government of Guam
6 Retirement Fund as appointed by the Board in accordance with Section 8140
7 of Article 1, Chapter 8 of Title 4 of the Guam Code Annotated.

8 (g) *Employer* means each and every line department or agency of the
9 Executive Branch, every autonomous and semi-autonomous agency or
10 instrumentality, every public corporation, every educational institution,
11 whether secondary or post-secondary, the Legislative Branch, the Judicial
12 Branch, the Public Defender Corporation and every public entity hereafter to
13 be created by law, within Guam which has employed or employs a member.

14 (h) *Excess Account Balance* means the amount by which a
15 member's account balances in Section 8208 (Member's Contributions) and
16 Section 8209.1(a) (Rollover of Member's Contributions from Section
17 8164(a)) of this Chapter exceeds the member's Actuarial Cost of Credited
18 Service.

19 (i) *Existing Retirement System* means the Government of Guam
20 Retirement Fund established and operated in accordance with Article 1 of this
21 Chapter and exclusive of modifications in the terms and conditions of the
22 Existing Retirement System applicable to the members of the Hybrid
23 Retirement System under this Article 5.

24 (j) *Hybrid Retirement System or Hybrid Plan* means the
25 Government of Guam Hybrid Retirement System established and operated
26 under this Article 5. The Hybrid Retirement System shall consist of the
27 mandated and coordinated participation of members in two separate and

1 preexisting retirement programs: (1)the Retirement Fund established and
2 maintained under Article 1, Chapter 8 of Title 4 of the Guam Code Annotated;
3 inclusive of the modifications to the terms and conditions of the Retirement
4 Fund for Hybrid Plan members as set forth in this Article 5; and (2) the
5 Deferred Compensation Program established and maintained under Article 3,
6 Chapter 8 of Title 4 of the Guam Code Annotated.

7 (k) *Member or Hybrid Plan member* means any person who meets
8 the eligibility requirements for membership in the Hybrid Retirement System
9 as described in Section 8502 and participates in the Hybrid Retirement
10 System.

11 (l) *Retirement Fund* means the Government of Guam Retirement
12 Fund established and operated in accordance with Article 1 of this Chapter
13 and inclusive of the modifications in the terms and conditions of the Existing
14 Retirement System applicable to members of the Hybrid Retirement System
15 under this Article 5.

16 **Section 8502. Establishment of the Government of Guam Hybrid**
17 **Retirement System; Membership in Hybrid Retirement System**

18 (a) Hybrid Retirement System. Beginning January 1, 2016, the
19 Government of Guam Hybrid Retirement System shall be established
20 hereunder, which System shall be comprised of membership under the
21 Government of Guam Retirement Fund established under Article 1 of this
22 Title and the Deferred Compensation Program established under Article 3 of
23 this Title. The Hybrid Retirement System does not comprise a separate fund
24 or trust for members thereunder, but is the coordinated dual participation on a
25 mandatory basis at specified benefit levels in both the Retirement Fund and
26 the Deferred Compensation Program. Beginning January 1, 2016, the Hybrid
27 Retirement System shall be the single retirement program for all new

1 employees whose employment commences on or after that date. No
2 additional new employees shall be admitted to the Defined Contribution
3 System on or after such date, except as provided from time to time in the
4 Defined Contribution System. Members of the Defined Contribution System
5 whose employment continues beyond December 31, 2016, shall continue to
6 contribute to and participate in the Defined Contribution System without
7 change in provisions or benefits, except for members who elect to become
8 Hybrid Plan members pursuant to Section 8502(b) or as provided from time
9 to time under the Defined Contribution System.

10 (b) Membership in Retirement Fund

11 (1) New Employees. All new employees whose employment
12 commences on or after January 1, 2016, and who satisfy the eligibility
13 requirements for membership under Sections 8105-8106, shall participate in
14 the Retirement Fund as "Hybrid Plan members" in accordance with such
15 eligibility requirements. No additional new employees shall be admitted to
16 the Existing Retirement System or the Defined Contribution System on or
17 after January 1, 2016, except as provided hereunder or provided from time to
18 time under the Existing Retirement System or the Defined Contribution
19 System, respectively. Members of the Existing Retirement System whose
20 employment continues beyond December 31, 2015, shall continue to
21 contribute and participate in the Existing Retirement System without change
22 in provisions or benefits, except as provided from time to time under the
23 Existing Retirement System. Except for those members who elect to
24 participate in the Hybrid Retirement System pursuant to Section 8502(b)(2),
25 members of the Defined Contribution System whose employment continues
26 beyond December 31, 2015, shall continue to contribute and participate in the

1 Defined Contribution System without change in provisions or benefits, except
2 as provided from time to time under the Defined Contribution System.

3 (2) Hybrid Plan Election by Current Employees in Defined
4 Contribution System. All employees who are members in the Defined
5 Contribution System on December 31, 2015, shall be eligible to elect on a
6 voluntary basis to become Hybrid Plan members effective as of January 1,
7 2017, and to terminate active participation in the Defined Contribution System
8 as of such date, by making the appropriate election with the Hybrid
9 Retirement System in the form and manner as determined by the Board during
10 the election period commencing on April 1, 2016, and ending on September
11 30, 2016. After having made such election to become a Hybrid Plan member,
12 the member may not change such election or again become an active member
13 of the Defined Contribution System. The failure to make such election shall
14 be deemed to constitute an election by the member to remain as an active
15 member under the Defined Contribution System. Such election shall not
16 apply to members in the Defined Contribution System who have retired or
17 otherwise terminated employment from government service and who are not
18 employed by the Government of Guam at the time of the election and as of
19 the January 1, 2017, effective date of participation in the Hybrid Plan.

20 (3) Reemployment of Existing Retirement System Member.
21 Any employee who is a member in the Existing Retirement System, who
22 leaves government service and who is later reemployed after December 31,
23 2015 by the Government of Guam, shall become an active member in the
24 Existing Retirement System upon reemployment if such employee has not
25 received a refund of contributions resulting in ineligibility for membership
26 under Section 8130(b), and if such employee otherwise meets the eligibility
27 requirements under the Existing Retirement System. However, if such

1 employee has received a refund of contributions under Section 8130, and if
2 such employee otherwise meets the eligibility requirements for membership
3 under Sections 8105-8106, then such employee shall become an active
4 member in the Hybrid Retirement System upon reemployment.

5 (4) Reemployment of Defined Contribution System Member.

6 Any employee who is a member maintaining an interest in the
7 Defined Contribution System, who leaves government service and who is later
8 reemployed after December 31, 2015, by the Government of Guam, shall
9 become an active member in the Defined Contribution System upon
10 reemployment if such employee otherwise meets the eligibility requirements
11 under the Defined Contribution System. However, if such a member is
12 reemployed during the period commencing on January 1, 2016, and ending on
13 September 30, 2016, then: (A) the member shall be eligible to elect on a
14 voluntary basis to become a member of the Hybrid Plan if such member
15 otherwise meets the eligibility requirements for membership under Section
16 8105-8106; (B) the election period for this election shall be the period
17 commencing on April 1, 2016, and ending on September 30, 2016 (or October
18 31, 2016, for members reemployed during the month of September 2016), and
19 the effective date of the member's membership in the Hybrid Plan shall be
20 January 1, 2017; and (C) the member's account under the Defined
21 Contribution System shall be subject to transfer to the Hybrid Retirement
22 System in accordance with Sections 8503(d)(2) and 8504. Further, if such a
23 member is reemployed after September 30, 2016: (A) the member shall be
24 eligible to elect on a voluntary basis to become a member of the Hybrid Plan
25 if such member otherwise meets the eligibility requirements for membership
26 under Section 8105-8106; (B) the election period for such election shall be
27 the thirty (30)-day period beginning on the date of reemployment, and the

1 effective date of the member's membership in the Hybrid Plan shall be the
2 date of reemployment; and (C) the member's account under the Defined
3 Contribution System shall not be subject to transfer to the Retirement Fund.

4 (5) Reemployment of Defined Contribution System Member
5 on Disability. Notwithstanding the above Section 8502(b)(4), a member of the
6 Defined Contribution System who had incurred a disability and at any time
7 been eligible to receive any benefits provided under any long-term disability
8 insurance policy issued pursuant to Section 8213 or Article 4 of this Title shall
9 not be eligible for membership under the Hybrid Retirement System upon
10 reemployment, but such member who satisfies the eligibility requirements for
11 membership under Sections 8206-8207 at such time shall participate in the
12 Defined Contribution System in accordance with such eligibility
13 requirements. However, in the case of a member of the Defined Contribution
14 System who is receiving disability benefits under Section 8213 or Article 4 of
15 this Title during the period commencing January 1, 2016, and ending on
16 September 30, 2016, such member shall be eligible to elect on a voluntary
17 basis to become a member of the Hybrid Plan in the event of the member's
18 reemployment or retirement on or after January 1, 2017. For this purpose, the
19 election period for this election shall be the period commencing on April 1,
20 2016, and ending on September 30, 2016 (or October 31, 2016, for members
21 who commence receiving disability benefits during the month of September
22 2016), and the effective date of the member's membership in the Hybrid Plan
23 shall be the later of: (A) January 1, 2017, or (B) the date of the member's
24 reemployment or retirement.

25 (6) Reemployment of Government of Guam Retiree. Any
26 employee who retired under the Existing Retirement System, the Defined

1 Contribution System, or the Hybrid Retirement System, shall participate in
2 the Defined Contribution Plan upon reemployment.

3 (c) Membership in Deferred Compensation Program. Hybrid Plan
4 members shall participate in the Deferred Compensation Program effective as
5 of the date on which they commence participation in the Retirement Fund.

6 (d) Membership in Welfare Benefit Plans. Hybrid Plan members
7 shall not be eligible to participate in the welfare benefit plans established and
8 maintained under Article 4 of this Title. As such, members of the Defined
9 Contribution System who elect to become Hybrid Plan members pursuant to
10 Section 8502(b) shall terminate participation in such welfare benefit plans
11 effective as of the date on which they commence participation in the Hybrid
12 Retirement System.

13 (e) Applicability of Articles 1-3, Chapter 8. Except as otherwise
14 provided hereunder, with respect to Hybrid Plan members who participate in
15 the Retirement Fund, Defined Contribution System, and Deferred
16 Compensation Program in accordance with the Hybrid Retirement System
17 provisions under this Article 5, the provisions of Articles 1-3 of this Chapter
18 8, respectively, shall be applicable to Hybrid Plan members in a manner no
19 different than the application to members who are not Hybrid Plan members.

20 **Section 8503. Hybrid Plan Member Basic Retirement Annuity**

21 (a) Amount of Basic Retirement Annuity. Notwithstanding the
22 otherwise applicable formula under Section 8122 or other successor
23 provision, the basic retirement annuity payable to a Hybrid Plan member
24 under the Retirement Fund shall be the following:

25 (1) an amount equal to one and three quarters percent (1.75%)
26 of average annual salary for each year of credited service;

1 (2) no basic retirement annuity shall exceed eighty-five
2 percent (85%) of average annual salary; and

3 (3) the basic retirement annuity shall not, in any case, be less
4 than One Thousand Two Hundred Dollars (\$1,200) per year per member.

5 For purposes of defining "salary" and "average annual salary" under Section
6 8104(i) and (j), respectively, with respect to the determination of the basic
7 retirement annuity payable to a Hybrid Plan member, the term "salary" shall
8 mean the member's base salary excluding all non-base compensation.

9 (b) Automatic Increases in Annuity for Basic Retirement Annuity.

10 Any Hybrid Plan member receiving a basic retirement annuity under the
11 Retirement Fund shall receive each year on the anniversary date of the
12 member's retirement or entitlement, an automatic "sliding scale" increase in
13 the member's annual annuity as applicable under the Retirement Fund
14 pursuant to Section 8122 or other successor provision.

15 (c) Retirement. Notwithstanding the otherwise applicable

16 retirement requirements under Sections 8119-8120.1 or other successor
17 provisions, a Hybrid Plan member may retire on a service retirement annuity
18 under the Retirement Fund, upon written application to and approval by the
19 Board; provided that such member shall have attained at least sixty-five (65)
20 years of age and has completed five (5) years of service. However, at the
21 option of the Hybrid Plan member, whether active or inactive, such member
22 may retire after (1) attaining at least fifty-five (55) years of age and (2)
23 completing twenty-five (25) years of service, in which case the retirement
24 annuity for such member shall be reduced one half (1/2) of one percent (1%)
25 for each month such member is under the age of sixty-five (65) years at such
26 time of retirement, from the amount of the retirement annuity determined for
27 such member as of his attainment of age sixty-five (65).

1 (d) Credited Service for Transfers from Defined Contribution
2 System

3 (1) Transfer of Account to Hybrid Retirement System. With
4 respect to a member in the Defined Contribution System who elects to be a
5 member in the Hybrid Retirement System effective as of January 1, 2017, in
6 accordance with the election procedures under Section 8502(b)(2), the
7 member's account balance under the Defined Contribution System shall be
8 transferred to the Hybrid Retirement System, in accordance with Section
9 8504, effective as of January 1, 2017. Further, with respect to a member in
10 the Defined Contribution System who is reemployed during the period
11 commencing January 1, 2016, and ending on September 30, 2016, by the
12 Government of Guam and who becomes a member in the Hybrid Retirement
13 System effective as of January 1, 2017, following reemployment in
14 accordance with Section 8502(b)(4), the member's account balance under the
15 Defined Contribution System shall be transferred to the Hybrid Retirement
16 System, in accordance with Section 8504, effective as of January 1, 2017.
17 Finally, with respect to a member in the Defined Contribution System who is
18 receiving disability benefits and who becomes a member in the Hybrid
19 Retirement System upon reemployment or retirement in accordance with
20 Section 8502(b)(5), the member's account balance under the Defined
21 Contribution System shall be transferred to the Hybrid Retirement System, in
22 accordance with Section 8504, effective as of the effective date of the
23 member's membership in the Hybrid Plan as described in Section 8502(b)(5).
24 In these cases, as of the effective date of the transfer of a member's account
25 from the Defined Contribution System to the Hybrid Retirement System, such
26 member's membership in the Defined Contribution System shall terminate.
27 The transfer of a member's account from the Defined Contribution System to

1 the Hybrid Retirement System attributable to the transfer of Member
2 Contributions pursuant to Section 8208, and Member's Contribution Reserve
3 and Transfer Incentive Reserve pursuant to Section 8209.1(a)-(b), shall be
4 made in accordance with Section 8504. The transfer of a member's Employer
5 Account to the Hybrid Retirement System attributable to the transfer of
6 Employer's Contributions pursuant to Section 8209(a) (whether the account
7 reflecting such employer contributions are vested or unvested, and inclusive
8 of unvested suspense accounts) shall be pursuant to subsection 8503(d)(2).
9 Any Ancillary Benefit Account maintained under the Defined Contribution
10 System on behalf of the member as described in Section 8201(n) shall not be
11 subject to transfer.

12 (2) Defined Contribution System Credited Service. Effective
13 as of the effective date of the transfer of the member's account from the
14 Defined Contribution System to the Retirement Fund under this Section
15 8503(d), the service for which the member's account is credited with employer
16 contributions under the Defined Contribution System (including the service
17 under the Retirement Fund attributable to the employee contributions
18 previously transferred from the Retirement Fund to the Defined Contribution
19 System pursuant to the member's election under Section 8207), shall be
20 credited to the member for purposes of determining the member's years of
21 credited service and basic retirement annuity under the Retirement Fund in
22 accordance with Section 8503. In connection with credited service transferred
23 from the Defined Contribution System to the Retirement Fund under Section
24 8503(d)(1), a member's Section 8209(a) Employer's Contribution account
25 (whether the account reflecting such employer contributions are vested or
26 unvested, and inclusive of unvested suspense accounts) shall be transferred to

1 the member's Section 8164(b) account (Employer's Contribution Reserve)
2 under the Retirement Fund.

3 (3) Credited Service for Repayment of Defined Contribution
4 System Contributions. In the event that the Hybrid Plan member's account
5 under the Defined Contribution System was previously reduced by the
6 member's withdrawal of an amount from the member's account that is
7 attributable to contributions during the member's active participation in the
8 Defined Contribution System, the member shall be allowed to repay to the
9 Retirement Fund the amount of the withdrawal, adjusted for interest during
10 the period commencing on the date of the withdrawal and ending on the date
11 of the repayment, which repayment must be made in any combination of the
12 following: a single payment, transfer of Excess Account Balance, or
13 installments to the Retirement Fund in accordance with the Title 2, Division
14 1, Chapter 3, Article 1, of the Guam Administrative Rules, as amended. If
15 such withdrawn portion of the member's account is not timely repaid in full to
16 the Retirement Fund, then the service that otherwise would be credited under
17 the Retirement Fund for service during the member's active participation in
18 the Defined Contribution System shall be reduced to account for the service
19 to which the withdrawal relates, in accordance with rules, regulations, and
20 procedures as promulgated or approved by the Board.

21 (4) Credited Service for Repayment of Prior Retirement Fund
22 Contributions. In the event that the member's account under the Defined
23 Contribution System was previously reduced by the member's withdrawal of
24 an amount from the member's account that is attributable to the prior transfer
25 of employee contributions from the Retirement Fund to the Defined
26 Contribution System (specifically, considering only the portion of the account
27 derived from the transferred Member's Contribution Reserve, and not the

1 Employer's Contribution Reserve) pursuant to the member's election under
2 Section 8207, the member shall be allowed to repay to the Retirement Fund
3 the amount of the withdrawal, adjusted for interest during the period
4 commencing on the date of the withdrawal and ending on the date of the
5 repayment, which repayment must be made in any combination of the
6 following: a single payment, transfer of Excess Account Balance, or
7 installments to the Retirement Fund in accordance with the Title 2, Division
8 1, Chapter 3, Article 1, of the Guam Administrative Rules, as amended. If
9 such withdrawn portion of the member's account is not timely repaid in full to
10 the Retirement Fund, then the service that otherwise would be credited under
11 the Retirement Fund for service during the member's prior participation in the
12 Retirement Fund shall be reduced to account for the service to which the
13 withdrawal relates in accordance with rules, regulations, and procedures as
14 may be promulgated or approved by the Board.

15 **Section 8504. Transfer of Member Accounts from Defined**
16 **Contribution System; Transfer of Excess Account Balance, If Any**

17 (a) In connection with credited service transferred from the Defined
18 Contribution Retirement System to the Retirement Fund under Section
19 8503(d)(1), a member's Member Account balances in the Defined
20 Contribution System shall be transferred to the Hybrid Retirement System in
21 accordance with this Section.

22 (b) An amount equal to the lesser of a member's: (1) Section 8208
23 and Section 8209.1(a) account balances, if any; or (2) actuarial cost of
24 credited service, shall be transferred to the Hybrid Retirement System as set
25 forth in this subsection 8504(b). The actuarial cost of credited service for a
26 member transferring to the Hybrid Plan shall be funded first from the
27 member's Section 8209.1(a) account, if any, and applied to the member's

1 Section 8164(a) Member's Contribution Reserve; any further amounts
2 needed to fund up to the actuarial cost of credited service shall be funded
3 next from the member's Section 8208 pre-tax account and applied to a pre-
4 tax subaccount in the member's Section 8164(a) Member's Contribution
5 Reserve. Excess Account Balance, if any, attributable to a member's
6 Section 8209.1(a) account shall be transferred to the member's post-tax
7 account in the Deferred Compensation Program, except for amounts
8 designated by the member to be applied to repay prior partial withdrawals
9 from the member's account in accordance with Section 8503(d)(3). Excess
10 Account Balance, if any, attributable to a member's Section 8208 Member
11 Contribution Account shall be transferred to the member's pre-tax account
12 in the Deferred Compensation Program, except for amounts designated by
13 the member to be applied to repay prior partial withdrawals from the
14 member's account in accordance with Section 8503(d)(3).

15 (c) An amount equal to the member's Section 8209.1(b) account
16 (Rollover Employer's Contributions from Section 8164(b), also referred to
17 as the Transfer Incentive Reserve) shall be transferred to the member's pre-
18 tax account in the Deferred Compensation Program, except for amounts
19 designated by the member to be applied to repay prior partial withdrawals
20 from the member's account in accordance with Section 8503(d)(3).

21 **Section 8505. Hybrid Plan Member Disability Retirement**

22 **Annuity**

23 (a) Amount of Disability Retirement Annuity. Notwithstanding the
24 otherwise applicable formula under Section 8125 or other successor
25 provision, the amount of basic disability retirement annuity for a Hybrid Plan
26 member under the Retirement Fund shall be fifty percent (50%) of average
27 annual salary based on the average three (3) highest annual salaries received

1 the member during that member's years of credited service. For purposes of
2 defining "salary" and "average annual salary" under Section 8104(i) and (j),
3 respectively, with respect to the determination of the basic disability
4 retirement annuity payable to a Hybrid Plan member, the term "salary" shall
5 mean the member's base salary excluding all non-base compensation.

6 (b) Automatic Increases in Annuity for Disability Retirement
7 Annuity. Any Hybrid Plan member receiving a recomputed disability
8 retirement annuity under the Retirement Fund shall receive each year on the
9 anniversary date of the member's retirement or entitlement, an automatic
10 sliding scale increase in the member's annual basic disability retirement
11 annuity as applicable under the Retirement Fund pursuant to Section 8129 or
12 other successor provision.

13 **Section 8506. Hybrid Plan Member Death and Survivors Benefits**

14 The death benefit and survivor annuity provisions in connection with a
15 member's death under Sections 8131-8135 or other successor provisions shall
16 be applicable to Hybrid Plan members in a manner no different than the
17 application to members who are not Hybrid Plan members.

18 **Section 8507. Hybrid Plan Member Contributions to Fund**

19 The member contribution provisions under Section 8136 or other
20 successor provision shall be applicable to Hybrid Plan members in a manner
21 no different than the application to members who are not Hybrid Plan
22 members. However, notwithstanding that the contributions by Hybrid Plan
23 members are designated as member contributions and shall be administered
24 as member contributions under Section 8136, such contributions shall be on a
25 mandatory basis deducted from the member's base salary and paid by the
26 employer in lieu of contributions by the member, and shall constitute pre-tax
27 "pick-up" employer contributions for purposes of determining the income tax

1 treatment of such contributions under Section 414(h) of the United States
2 Internal Revenue Code.

3 **Section 8508. Deferred Compensation Program**

4 In accordance with Section 8308, the employer shall deduct and credit
5 Hybrid Plan member contributions under the Deferred Compensation
6 Program in an amount equal to one percent (1%) of the member's base salary.
7 However, notwithstanding that the contributions by Hybrid Plan members are
8 designated and shall be administered as member contributions under Section
9 8308, such contributions shall be on a mandatory basis deducted from the
10 member's base salary and paid by the employer in lieu of contributions by the
11 member, and shall constitute pre-tax "pick-up" employer contributions for
12 purposes of determining the income tax treatment of such contributions under
13 Section 414(h) of the United States Internal Revenue Code."

14 **SECTION 4. Rules and Regulations.** No later than December 31, 2015, the
15 Board of Trustees of the Retirement Fund shall approve such plan documents, rules,
16 regulations, administrative procedures and forms at it may deem necessary and
17 appropriate to implement the Hybrid Retirement System under this Article 5.

18
19 **SECTION 5 Social Security Option.** In the event that the Government of
20 Guam is permitted by the Federal Government to enter into voluntary agreements
21 with the Social Security Administration to extend Social Security coverage to
22 Government of Guam employees, the Fund shall within ninety (90) days of such
23 permission submit a plan to *I Liheslatura* and *I Maga Lahen Guahan* to incorporate
24 social security as a component of retirement for employees who are not members of
25 the Defined Benefit Plan within one year. Once submitted, the plan shall be subject
26 to the approval *I Liheslatura*.

1 **SECTION 6. Effective Date.** Except as otherwise provided herein, this Act
2 shall take effect upon enactment.

3 **SECTION 7. Severability.** If any provision of this Act or its application to
4 any person or circumstance is found to be invalid or contrary to law, such invalidity
5 shall not affect other provisions or applications of this Act which can be given effect
6 without the invalid provisions or applications, and to this end the provisions of this
7 Act are severable.