

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED
47-32 (LS), P.L. 32-	V.C. Pangelinan	AN ACT TO ADD A NEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND	2/19/13 11:17am	2/19/13	Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land	3/12/13 9:00 a.m.	03/25/13 9:18 a.m.
	DATE PASSED	TITLE	TRANSMITTED		DUE DATE	<small>DATE SIGNED BY I MAGA'LAHEN GUAHAN</small>	PUBLIC LAW NO.
	4/1/2013	AN ACT TO ADD A NEW §8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND.	3/25/13	4:35pm	4/4/13	4/2/2013	32-008



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

April 2, 2013

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai DOS Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Office of the Speaker
Judith T. Won Pat, Ed. D.
Date 4/3/13
Time 1:00 PM
Received by Falk
32-113-239

2013 APR - 3 PM 1:00

Dear Madame Speaker:

Transmitted herewith is Bill No. 47-32(LS), "AN ACT TO ADD A NEW SECTOIN 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH THE INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND," which I signed into law on April 2, 2013 as Public Law 32-008

Senseramente,

RAY TENORIO
Acting Governor of Guam

0239

Attachment: copy of Bill

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

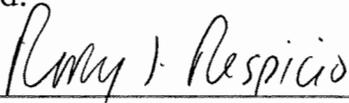
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 47-32 (LS)**, "AN ACT TO ADD A NEW §8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND", was on the 25th day of March, 2013, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



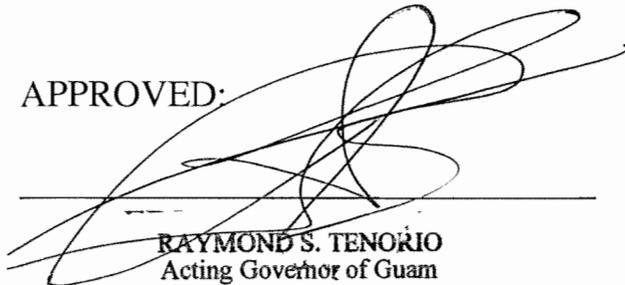
Rory J. Respicio
Acting Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 25th day of Mar.,
2013, at 4:35 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



RAYMOND S. TENORIO
Acting Governor of Guam

Date: 04/02/2013

Public Law No. 32-008



FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

March 25, 2013

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Calvo:

Transmitted herewith is Bill No. 47-32 (LS) which was passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on March 25, 2013.

Sincerely,


Rory J. Respicio
Acting Legislative Secretary

Enclosure (1)

OFFICE OF THE GOVERNOR
CENTRAL FILES

RECEIVED BY
TIME 4:35 PM DATE 3/25/13

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

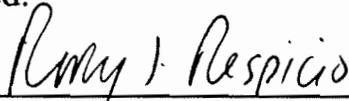
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 47-32 (LS)**, "AN ACT TO ADD A NEW §8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND", was on the 25th day of March, 2013, duly and regularly passed.



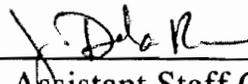
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Rory J. Respicio
Acting Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 25th day of Mar.,
2013, at 4:35 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 47-32 (LS)

Introduced by:

Vicente (ben) C. Pangelinan

T. C. Ada

V. Anthony Ada

Frank B. Aguon, Jr.

B. J.F. Cruz

Chris M. Dueñas

M. T. Limtiaco

Brant T. McCreadie

Tommy Morrison

T. R. Muña Barnes

R. J. Respicio

Dennis G. Rodriguez, Jr.

M. F.Q. San Nicolas

Aline A. Yamashita, Ph.D.

Judith T. Won Pat, Ed.D.

**AN ACT TO ADD A NEW §8103.1 TO ARTICLE 1,
CHAPTER 8, TITLE 4 OF THE GUAM CODE
ANNOTATED, TO COMPLY WITH INTERNAL
REVENUE CODE REQUIREMENTS APPLICABLE TO
THE GOVERNMENT OF GUAM RETIREMENT FUND.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Article 1, Chapter 8, Title 4 of the Guam Code Annotated must be amended to
4 comply with the requirements for tax-qualified governmental pension plans under
5 Section 401(a) of the United States Internal Revenue Code of 1986, as amended,
6 applicable to Guam under the mirror provisions of the Guam Territorial Income
7 Tax Code.

1 **Section 2.** A new §8103.1 of Article 1, Chapter 8, Title 4 of the Guam
2 Code Annotated is hereby *added* to read as follows:

3 **“§ 8103.1. Tax Qualification Requirements.**

4 (a) The Fund *shall* maintain its status as a tax-qualified
5 governmental pension plan under Section 401(a) of the Code. As used in
6 this Article, “Code” means the United States Internal Revenue Code of
7 1986, as amended, applicable to Guam under the mirror provisions of the
8 Guam Territorial Income Tax Code.

9 (b) The Fund *shall* be administered in accordance with the
10 requirements of Section 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and
11 (37) of the Code, as such provisions, as amended, apply to a governmental
12 pension plan sponsored by the government of Guam. Without limiting the
13 generality of the foregoing and notwithstanding any other provision of this
14 Article to the contrary:

15 (1) In accordance with Sections 401(a)(1) and 401(a)(2) of
16 the Code, the Board *shall* hold the corpus and income of the Fund in
17 trust, and at no time prior to the satisfaction of all liabilities with
18 respect to members and their beneficiaries shall any part of the corpus
19 or income of the Fund be used for, or diverted to, purposes other than
20 for the exclusive benefit of the members and their beneficiaries.

21 (2) In accordance with Section 401(a)(7) of the Code, in the
22 event of the termination of or complete discontinuance of
23 contributions to the Fund, the rights of all members to benefits
24 accrued as of the date of such termination or discontinuance, to the
25 extent then funded, *shall* be fully vested and nonforfeitable.

26 (3) In accordance with Section 401(a)(8) of the Code,
27 benefits forfeited by a member for any reason *shall not* be applied to

1 increase the benefits any other member or beneficiary would
2 otherwise receive under this Article.

3 (4) All benefit distributions *shall* be administered in
4 accordance with a reasonable good-faith interpretation of Section
5 401(a)(9) of the Code. The following describes the statutory
6 requirements of Section 401(a)(9) of the Code:

7 (A) The member's entire interest *shall* be distributed to
8 the member *no later than* the member's required beginning
9 date, or the member's entire interest must begin to be
10 distributed to the member *no later than* the member's required
11 beginning date and must be paid over the life of the member, or
12 the lives of the member and a designated beneficiary (or over a
13 period that *does not* extend beyond the life expectancy of the
14 member or the life expectancy of the member and a designated
15 beneficiary). The "required beginning date" is April 1 of the
16 calendar year following the later of (i) the calendar year in
17 which the member attains age 70½, or (ii) the calendar year in
18 which the member retires.

19 (B) If the distribution of the member's interest has
20 begun in accordance with Paragraph (A) and the member dies
21 before the member's entire interest has been distributed, the
22 remaining portion must be distributed at least as rapidly as
23 under the method of distribution being used to satisfy Paragraph
24 (A).

25 (C) If the member dies before distribution of the
26 member's interest has begun under Paragraph (A), the
27 member's entire interest *shall* be distributed, or begin to be

1 distributed, *no later than* as follows:

2 (i) If the member's surviving spouse is the
3 member's sole designated beneficiary, distributions to the
4 surviving spouse *shall* begin by December 31 of the
5 calendar year immediately following the calendar year in
6 which the member dies, or by December 31 of the
7 calendar year in which the member would have attained
8 age 70½, if later;

9 (ii) If the member's surviving spouse is *not* the
10 member's sole designated beneficiary, distributions to the
11 designated beneficiary *shall* begin by December 31 of the
12 calendar year immediately following the calendar year in
13 which the member died, and *shall* be paid over the life of
14 such designated beneficiary (or over a period *not*
15 extending beyond the life expectancy of such
16 beneficiary); or

17 (iii) If there is no designated beneficiary, the
18 member's entire interest *shall* be distributed by
19 December 31 of the calendar year containing the fifth
20 anniversary of the member's death.

21 (D) All death benefits *shall* be administered to comply
22 with the incidental death benefit requirement in Section
23 401(a)(9)(G) of the Code.

24 (5) In accordance with Section 401(a)(16), benefits paid
25 from, and mandatory employee contributions made to, the Fund *shall*
26 *not* exceed the maximum benefits and the maximum annual additions,
27 respectively, permissible under Section 415 of the Code with respect

1 to governmental plans.

2 (A) Specifically, the “annual benefit,” which is a
3 benefit payable in the form of a straight life annuity, *may not*
4 exceed the dollar limit described in Section 415(b)(1)(A) of the
5 Code, as automatically adjusted for increases in the cost of
6 living under Section 415(d) of the Code. For benefits payable
7 in the plan year ending September 30, 2010, the dollar limit is
8 \$195,000. The 12-month plan year ending each September 30
9 *shall* be the “limitation year” for purposes of applying the
10 limitations under Section 415 of the Code. Section 415 of the
11 Code and the Treasury Regulations thereunder require that
12 adjustments be made to the dollar limit for benefits that
13 commence prior to age 62, or after age 65, and for benefits
14 payable to members with *less than* ten years of membership.
15 The Code and Treasury Regulations require that any benefit
16 payable in a form other than a straight life annuity must be
17 converted to an actuarially equivalent straight life annuity in
18 applying the applicable limit to the “annual benefit”.

19 (B) The “annual benefit” *does not* include the portion
20 of the member’s benefit attributable to mandatory employee
21 contributions under Section 8136. Rather, mandatory employee
22 contributions are treated as contributions to a defined
23 contribution plan for purposes of Section 415 of the Code, and
24 are therefore subject to the limits on annual additions under
25 Section 415(c)(1) of the Code. The annual additions *may not*
26 exceed the lesser of the two limits. The first limit is the dollar
27 limit described in Section 415(c)(1)(A) of the Code, as

1 automatically adjusted for increases in cost of living under
2 Section 415(d) of the Code. For the limitation year ending
3 September 30, 2010, the dollar limit is \$49,000. The second
4 limit is the compensation limit described in Section
5 415(c)(1)(B) of the Code which provides that the annual
6 additions *may not* exceed 100% of the member's "Section 415
7 compensation" for the limitation year.

8 (C) "Section 415 compensation" means the member's
9 Box 1, W-2 earnings for the year, modified to include any pre-
10 tax elective deferrals pursuant to Sections 403(b), 457(b), 125,
11 or 132(f)(4) of the Code. Generally, Section 415 compensation
12 *does not* include amounts paid after severance from
13 employment. However, Section 415 compensation does
14 include amounts paid by the later of 2½ months after the
15 member's severance from employment or the end of the
16 limitation year that includes the date of the member's severance
17 from employment if the payment is regular compensation for
18 services during the member's regular working hours, or
19 compensation for services outside the member's regular
20 working hours (such as overtime or shift differential),
21 commissions, bonuses, or similar payments, and, absent the
22 severance from employment, the payments would have been
23 paid to the member while the member continued in employment
24 with the government. Section 415 compensation also includes
25 any payments to or for the benefit of a member who *does not*
26 currently perform services for the government by reason of
27 qualified military service, as defined in Subsection (9) of this

1 Section, to the extent those payments *do not* exceed the
2 amounts the member would have received if the member had
3 continued to perform services for the government, rather than
4 entering qualified military service. Section 415 compensation
5 also includes "differential wage payments" within the meaning
6 of Section 3401(h)(2) of the Code with respect to the period
7 during which the member is on active duty in Qualified
8 Military Service. Finally, Section 415 compensation includes
9 payments awarded by an administrative agency, or court, or
10 pursuant to a bona fide agreement by the government to
11 compensate a member for lost wages. Such payments for back
12 pay are treated as Section 415 compensation for the limitation
13 year to which the back pay relates to the extent the back pay
14 represents wages and compensation that would otherwise be
15 included as Section 415 compensation under this Subsection.

16 (6) In accordance with Section 401(a)(17) of the Code, for
17 purposes of calculating contributions payable to the Fund and benefits
18 payable from the Fund, "salary," "annual salary," and "average annual
19 salary" *shall* be subject to the annual limit on compensation under
20 Section 401(a)(17) of the Code, which limit is adjusted automatically
21 for increases in the cost of living under Sections 401(a)(17)(B) and
22 415(d) of the Code. For the plan year ending September 30, 2010, the
23 limit is \$245,000.

24 (7) In accordance with Section 401(a)(25) of the Code, in the
25 case that the amount of the member's benefit payable by the Fund is to
26 be determined on the basis of actuarial assumptions, such assumptions
27 *shall* be specified under Fund documents.

1 (8) In accordance with Section 401(a)(31) of the Code, a
2 “distributee” who is entitled to a distribution may elect, at the time
3 and in the manner determined by the Board, to have any portion of an
4 “eligible rollover distribution” that is equal to at least \$500 (or such
5 other minimum amount required under the Code or Treasury
6 Regulations) paid directly in a “direct rollover” to an “eligible
7 retirement plan.” For purposes of these rules, the following
8 definitions apply:

9 (A) *eligible rollover distribution* means any
10 distribution of all or any portion of a member’s vested benefit,
11 *except* that an eligible rollover distribution *shall not* include:

12 (i) any distribution that is one of a series of
13 substantially equal periodic payments made no less
14 frequently than annually for the life (or life expectancy)
15 of the distributee or the joint lives (or joint life
16 expectancies) of the distributee and the distributee’s
17 beneficiary, or for a specified period of ten years or
18 more;

19 (ii) any distribution to the extent such
20 distribution is required under Section 401(a)(9) of the
21 Code; and

22 (iii) the portion of any distribution that is *not*
23 includible in gross income.

24 Notwithstanding the foregoing, a distribution *shall*
25 *not* fail to be an eligible rollover distribution merely
26 because the distribution consists of after-tax employee
27 contributions that are *not* includible in gross income.

1 However, such portion may be transferred *only* to an
2 individual retirement account described in Section 408(a)
3 of the Code or an individual retirement annuity described
4 in Section 408(b) of the Code (other than an endowment
5 contract), or to a qualified retirement plan (defined
6 contribution or defined benefit) described in Section
7 401(a) of the Code, or an annuity contract described in
8 Section 403(b) of the Code, provided that the qualified
9 trust or annuity contract agrees to separately account for
10 amounts so transferred (and the earnings thereon),
11 including separately accounting for the portion of such
12 distribution which is includible in gross income and the
13 portion which is *not* so includible.

14 (B) *eligible retirement plan shall* mean any of the
15 following accounts or plans to the extent it accepts the
16 distributee's eligible rollover distribution:

17 (i) a qualified retirement plan described in
18 Section 401(a) of the Code;

19 (ii) an individual retirement account described
20 in Section 408(a) of the Code;

21 (iii) an individual retirement annuity described in
22 Section 408(b) of the Code (other than an endowment
23 contract);

24 (iv) an annuity plan described in Section 403(a)
25 of the Code;

26 (v) an annuity contract described in Section
27 403(b) of the Code, or

1 (vi) an eligible deferred compensation plan
2 described in Section 457(b) of the Code that is
3 maintained by an eligible governmental employer
4 described in Section 457(e)(1)(A) of the Code, and that
5 agrees to separately account for amounts transferred into
6 such plan from this plan.

7 (C) A distributee includes a member, the surviving
8 spouse of a deceased member, and the current or former spouse
9 of a member who is an alternate payee under a qualified
10 domestic relations order that has been approved by the Board.

11 (D) A direct rollover is a direct payment by the Fund to
12 the eligible retirement plan specified by the distributee.

13 (E) A non-spouse beneficiary may elect a direct
14 rollover to an individual retirement account or individual
15 retirement annuity described in Paragraph (B)(ii) or (iii)
16 established for the purpose of receiving the distribution on
17 behalf of the non-spouse beneficiary.

18 (F) A distributee may elect a direct rollover to a Roth
19 IRA, as described in Section 408A of the Code, *if* the
20 distributee meets the requirements that apply to rollovers from a
21 traditional IRA to a Roth IRA (i.e., for tax years prior to
22 January 1, 2010, the distributee's modified adjusted gross
23 income *cannot* exceed \$100,000, and the distributee *must not* be
24 married filing a separate return).

25 (G) In prescribing the manner of making elections with
26 respect to eligible rollover distributions, as described above, the
27 Board may provide for the uniform application of any

1 restrictions permitted under applicable sections of the Code and
2 Treasury Regulations, including a requirement that a distributee
3 may *not* elect to make a direct rollover from a single eligible
4 rollover distribution to more than one eligible retirement plan.
5 The Board may require a recipient plan to provide a written
6 statement that it will accept the rollover and separately account
7 for the amount rolled over, where appropriate.

8 (H) Prior to making an eligible rollover distribution,
9 the Board *shall* provide the distributee a notice describing the
10 distributee's right to make a direct rollover to an eligible
11 retirement plan (the "402(f) Notice"). The Board *shall* issue the
12 402(f) Notice *at least* 30 days, but *no more than* 180 days, prior
13 to the date a distribution is made. However, such eligible
14 rollover distribution may commence *less than* 30 days after the
15 notice is given, provided that the 402(f) Notice clearly informs
16 the distributee that the distributee has the right to a period of *at*
17 *least* 30 days after receiving the notice to consider the decision
18 of whether or not to elect a direct rollover, and the distributee,
19 after receiving the notice, affirmatively elects a distribution.

20 (9) In accordance with Section 401(a)(37) of the Code, the
21 Uniformed Services Employment and Reemployment Rights Act of
22 1994 (USERRA), as amended, provides certain pension benefit rights
23 to employees who return to employment with their employer
24 following a leave of absence for "qualified military service" as
25 defined hereunder. §8137.2 of this Chapter also provides certain
26 rights to employees who are on leave without pay and on active duty
27 with the Guam National Guard or the reserve components of any of

1 the Armed Services of the United States. Any member who returns to
2 employment with the government following qualified military service
3 *shall* be entitled to the greater of the rights the member is entitled to
4 under §8137.2 of this Chapter, or the reemployment pension rights in
5 Section 414(u) of the Code. In the case of a member who dies while
6 performing qualified military service, the survivors of the member are
7 entitled to any additional benefits (other than benefit accruals relating
8 to the period of qualified military service) provided under the Fund
9 had the member resumed and then terminated employment on account
10 of death. This would include the death benefits provided under
11 §§8131 and 8134 of this Chapter. For purposes of this Section and
12 applying the requirements of the USERRA, *qualified military service*
13 means such term as defined in Section 414(u)(5) of the Code (any
14 service in the U.S. Armed Forces - Army, Air Force, Navy, Marines,
15 or Coast Guard; the Army National Guard and the Air National
16 Guard, when engaged in active duty for training, inactive duty
17 training, or full-time National Guard duty; the commissioned corps of
18 the Public Health Service; and any other category of persons
19 designated by the President in time of war or national emergency).”

20 **Section 5. Severability.** If any of the provisions of this law or its
21 application to any person or circumstance is found to be invalid or contrary to law,
22 such invalidity shall not affect other provisions or applications of this law which
23 can be given effect without the invalid provisions or application, and to this end the
24 provisions of this law are severable.

LEGISLATIVE SESSION ATTENDANCE

I MINA'TRENTAI DOS NA LIHESLATURAN

2013 (FIRST) Regular Session

Voting Sheet

Speaker Antonio R. Unipingco Legislative Session Hall

Monday, March 25, 2013

Bill No: 47-32 (LS)

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES					✓
Senator Vicente (ben) Cabrera PANGELINAN	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				

14

EXCUSED

TOTAL

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

March 26, 2013

Memorandum

To: **Reanne Meno**
Clerk of the Legislature

From: **Senator Rory J. Respicio** 
Chairperson, Committee on Rules

Subject: **Fiscal Notes**

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below. Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

Bill Nos.: 5-32 (LS), 11-32 (COR), 29-32 (COR), 35-32 (COR), 39-32 (COR), 47-32 (COR), 56-32 (COR), and 59-32 (COR)

WAIVERS:

Bill Nos.: 23-32 (COR), 58-32 (COR), and 67-32 (COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2013 MAR 26 AM 11:15
WR

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932EDDIE BAZA CALVO
GOVERNORJOHN A. RIOS
DIRECTORRAY TENORIO
LIEUTENANT GOVERNOR

MAR 25 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 5-32(LS), 11-32(COR), 29-32(COR), 35-32(COR), 39-32(COR), 47-32(LS), 56-32(COR), and 59-32(COR), and Fiscal Note Waiver on the following Bill Nos.: 23-32(COR), 58-32(COR) and 67-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 47-32 (LS)**

AN ACT TO ADD A NEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND.

Department/Agency Appropriation Information	
Dept./Agency Affected: Government of Guam Retirement Fund	Dept./Agency Head: Paula M. Blas
Department's General Fund (GF) appropriation(s) to date:	18,672,633
Department's Other Fund (Specify) appropriation(s) to date: 2718 Fund+A27	<u>7,500,000</u>
Total Department/Agency Appropriation(s) to date:	\$26,172,633

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹	\$0	\$0	\$0
FY 2013 Adopted Revenues	\$0	\$0	\$0
FY 2013 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? / / Yes /x/ No
If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /x/ N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ /x/ N/A
3. Does the Bill establish a new program/agency? /x/ Yes / / No
If yes, will the program duplicate existing programs/agencies? /x/ N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? /x/ Yes / / No
4. Will the enactment of this Bill require new physical facilities? / / Yes /x/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: /x/ Yes / / No
/ / Requested agency comments not received as of the due date / / Other:

Analyst: John AB Pangelinan Date: 3/10/13 Director: John A. Rios Date: MAR 21 2013
John AB Pangelinan, Deputy Director John A. Rios, Director

Footnotes:
Please see attached comment sheet

Comments on Bill No. 47-32

The intent of the proposed legislation is to have the Government of Guam Retirement Fund (GGRF) meet the requirements of a tax-qualified government pension plan under Section 401(a) of the United States Internal Revenue Code of 1986.

A review of this bill appears to be all administrative provisions with no specific fiscal impact other than the cost of administering the new program. This cost would be minimal given the infrastructure all ready in place at GGRF. The administering of such a program will lie with GGRF, given the requirement noted in Section 401(a) of the U.S. Internal Revenue Code of 1986.

With respect to the unfunded liability and the amortization schedule now in place and the possible need of extending such schedule in the future, under this proposed addition, Section 8103.1(b) (7) incorporates Section 401(a) (25) of the U.S. Code, which requires that a member's benefit payable by the GGRF is to be determined on the basis of actuarial assumptions and such assumptions must be included in any discussion dealing with membership benefits. Based on this requirement, GGRF, not the Legislature, will have the complete control of the policies affecting the distribution of retirees' benefit payout.

There is no immediate fiscal impact at the onset of the passage this bill. However, there is the opportunity cost of not being able to achieve lower government contribution share cost in the future as the result of complying with requirements of Section 401(a) of the United States Internal Revenue Code of 1986. In spite of this, there is still a need to meet the federal compliance required for a tax-qualified pension plan.

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

JOHN A. RIOS
DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR

FACSIMILE INFORMATION PAGE

PLEASE DELIVER TO: Senator Rory Respicio

FACSIMILE NUMBER: 472-3547

FROM: BBMR

Total Pages including this page: 23

If you do not receive legible copies of all the pages, please call back as soon

as possible. Phone numbers (671) 475-9412/9450. Fax number (671) 472-2825

RE: Fiscal Note on the following Bill Nos.: 5-32(LS), 11-32(COR), 29-32(COR), 35-32(COR), 39-32(COR), 47-32(LS), 56-32(COR), and 59-32(COR), and Fiscal Note Waiver on the following Bill Nos.: 23-32(COR), 58-32(COR), and 67-32(COR).

COMMENTS: Fiscal Notes to be picked up via Central Files.

Thank You!



FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

March 25, 2013

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Calvo:

Transmitted herewith is Bill No. 47-32 (LS) which was passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on March 25, 2013.

Sincerely,


Rory J. Respicio
Acting Legislative Secretary

Enclosure (1)

OFFICE OF THE GOVERNOR
CENTRAL FILES

RECEIVED BY
TIME 4:35 PM DATE 3/25/13

FILE COPY

I MINA 'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

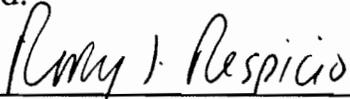
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA 'LAHEN GUÅHAN

This is to certify that **Bill No. 47-32 (LS)**, "AN ACT TO ADD A NEW §8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND", was on the 25th day of March, 2013, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Rory J. Respicio
Acting Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 25th day of Mar., 2013, at 4:35 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 47-32 (LS)

Introduced by:

Vicente (ben) C. Pangelinan

T. C. Ada

V. Anthony Ada

Frank B. Aguon, Jr.

B. J.F. Cruz

Chris M. Dueñas

M. T. Limtiaco

Brant T. McCreadie

Tommy Morrison

T. R. Muña Barnes

R. J. Respicio

Dennis G. Rodriguez, Jr.

M. F.Q. San Nicolas

Aline A. Yamashita, Ph.D.

Judith T. Won Pat, Ed.D.

**AN ACT TO ADD A NEW §8103.1 TO ARTICLE 1,
CHAPTER 8, TITLE 4 OF THE GUAM CODE
ANNOTATED, TO COMPLY WITH INTERNAL
REVENUE CODE REQUIREMENTS APPLICABLE TO
THE GOVERNMENT OF GUAM RETIREMENT FUND.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that Article 1, Chapter 8, Title 4 of the Guam Code Annotated must be amended to
4 comply with the requirements for tax-qualified governmental pension plans under
5 Section 401(a) of the United States Internal Revenue Code of 1986, as amended,
6 applicable to Guam under the mirror provisions of the Guam Territorial Income
7 Tax Code.

1 **Section 2.** A new §8103.1 of Article 1, Chapter 8, Title 4 of the Guam
2 Code Annotated is hereby *added* to read as follows:

3 **“§ 8103.1. Tax Qualification Requirements.**

4 (a) The Fund *shall* maintain its status as a tax-qualified
5 governmental pension plan under Section 401(a) of the Code. As used in
6 this Article, “Code” means the United States Internal Revenue Code of
7 1986, as amended, applicable to Guam under the mirror provisions of the
8 Guam Territorial Income Tax Code.

9 (b) The Fund *shall* be administered in accordance with the
10 requirements of Section 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and
11 (37) of the Code, as such provisions, as amended, apply to a governmental
12 pension plan sponsored by the government of Guam. Without limiting the
13 generality of the foregoing and notwithstanding any other provision of this
14 Article to the contrary:

15 (1) In accordance with Sections 401(a)(1) and 401(a)(2) of
16 the Code, the Board *shall* hold the corpus and income of the Fund in
17 trust, and at no time prior to the satisfaction of all liabilities with
18 respect to members and their beneficiaries shall any part of the corpus
19 or income of the Fund be used for, or diverted to, purposes other than
20 for the exclusive benefit of the members and their beneficiaries.

21 (2) In accordance with Section 401(a)(7) of the Code, in the
22 event of the termination of or complete discontinuance of
23 contributions to the Fund, the rights of all members to benefits
24 accrued as of the date of such termination or discontinuance, to the
25 extent then funded, *shall* be fully vested and nonforfeitable.

26 (3) In accordance with Section 401(a)(8) of the Code,
27 benefits forfeited by a member for any reason *shall not* be applied to

1 increase the benefits any other member or beneficiary would
2 otherwise receive under this Article.

3 (4) All benefit distributions *shall* be administered in
4 accordance with a reasonable good-faith interpretation of Section
5 401(a)(9) of the Code. The following describes the statutory
6 requirements of Section 401(a)(9) of the Code:

7 (A) The member's entire interest *shall* be distributed to
8 the member *no later than* the member's required beginning
9 date, or the member's entire interest must begin to be
10 distributed to the member *no later than* the member's required
11 beginning date and must be paid over the life of the member, or
12 the lives of the member and a designated beneficiary (or over a
13 period that *does not* extend beyond the life expectancy of the
14 member or the life expectancy of the member and a designated
15 beneficiary). The "required beginning date" is April 1 of the
16 calendar year following the later of (i) the calendar year in
17 which the member attains age 70½, or (ii) the calendar year in
18 which the member retires.

19 (B) If the distribution of the member's interest has
20 begun in accordance with Paragraph (A) and the member dies
21 before the member's entire interest has been distributed, the
22 remaining portion must be distributed at least as rapidly as
23 under the method of distribution being used to satisfy Paragraph
24 (A).

25 (C) If the member dies before distribution of the
26 member's interest has begun under Paragraph (A), the
27 member's entire interest *shall* be distributed, or begin to be

1 distributed, *no later than* as follows:

2 (i) If the member's surviving spouse is the
3 member's sole designated beneficiary, distributions to the
4 surviving spouse *shall* begin by December 31 of the
5 calendar year immediately following the calendar year in
6 which the member dies, or by December 31 of the
7 calendar year in which the member would have attained
8 age 70½, if later;

9 (ii) If the member's surviving spouse is *not* the
10 member's sole designated beneficiary, distributions to the
11 designated beneficiary *shall* begin by December 31 of the
12 calendar year immediately following the calendar year in
13 which the member died, and *shall* be paid over the life of
14 such designated beneficiary (or over a period *not*
15 extending beyond the life expectancy of such
16 beneficiary); or

17 (iii) If there is no designated beneficiary, the
18 member's entire interest *shall* be distributed by
19 December 31 of the calendar year containing the fifth
20 anniversary of the member's death.

21 (D) All death benefits *shall* be administered to comply
22 with the incidental death benefit requirement in Section
23 401(a)(9)(G) of the Code.

24 (5) In accordance with Section 401(a)(16), benefits paid
25 from, and mandatory employee contributions made to, the Fund *shall*
26 *not* exceed the maximum benefits and the maximum annual additions,
27 respectively, permissible under Section 415 of the Code with respect

1 to governmental plans.

2 (A) Specifically, the “annual benefit,” which is a
3 benefit payable in the form of a straight life annuity, *may not*
4 exceed the dollar limit described in Section 415(b)(1)(A) of the
5 Code, as automatically adjusted for increases in the cost of
6 living under Section 415(d) of the Code. For benefits payable
7 in the plan year ending September 30, 2010, the dollar limit is
8 \$195,000. The 12-month plan year ending each September 30
9 *shall* be the “limitation year” for purposes of applying the
10 limitations under Section 415 of the Code. Section 415 of the
11 Code and the Treasury Regulations thereunder require that
12 adjustments be made to the dollar limit for benefits that
13 commence prior to age 62, or after age 65, and for benefits
14 payable to members with *less than* ten years of membership.
15 The Code and Treasury Regulations require that any benefit
16 payable in a form other than a straight life annuity must be
17 converted to an actuarially equivalent straight life annuity in
18 applying the applicable limit to the “annual benefit”.

19 (B) The “annual benefit” *does not* include the portion
20 of the member’s benefit attributable to mandatory employee
21 contributions under Section 8136. Rather, mandatory employee
22 contributions are treated as contributions to a defined
23 contribution plan for purposes of Section 415 of the Code, and
24 are therefore subject to the limits on annual additions under
25 Section 415(c)(1) of the Code. The annual additions *may not*
26 exceed the lesser of the two limits. The first limit is the dollar
27 limit described in Section 415(c)(1)(A) of the Code, as

1 automatically adjusted for increases in cost of living under
2 Section 415(d) of the Code. For the limitation year ending
3 September 30, 2010, the dollar limit is \$49,000. The second
4 limit is the compensation limit described in Section
5 415(c)(1)(B) of the Code which provides that the annual
6 additions *may not* exceed 100% of the member's "Section 415
7 compensation" for the limitation year.

8 (C) "Section 415 compensation" means the member's
9 Box 1, W-2 earnings for the year, modified to include any pre-
10 tax elective deferrals pursuant to Sections 403(b), 457(b), 125,
11 or 132(f)(4) of the Code. Generally, Section 415 compensation
12 *does not* include amounts paid after severance from
13 employment. However, Section 415 compensation does
14 include amounts paid by the later of 2½ months after the
15 member's severance from employment or the end of the
16 limitation year that includes the date of the member's severance
17 from employment if the payment is regular compensation for
18 services during the member's regular working hours, or
19 compensation for services outside the member's regular
20 working hours (such as overtime or shift differential),
21 commissions, bonuses, or similar payments, and, absent the
22 severance from employment, the payments would have been
23 paid to the member while the member continued in employment
24 with the government. Section 415 compensation also includes
25 any payments to or for the benefit of a member who *does not*
26 currently perform services for the government by reason of
27 qualified military service, as defined in Subsection (9) of this

1 Section, to the extent those payments *do not* exceed the
2 amounts the member would have received if the member had
3 continued to perform services for the government, rather than
4 entering qualified military service. Section 415 compensation
5 also includes "differential wage payments" within the meaning
6 of Section 3401(h)(2) of the Code with respect to the period
7 during which the member is on active duty in Qualified
8 Military Service. Finally, Section 415 compensation includes
9 payments awarded by an administrative agency, or court, or
10 pursuant to a bona fide agreement by the government to
11 compensate a member for lost wages. Such payments for back
12 pay are treated as Section 415 compensation for the limitation
13 year to which the back pay relates to the extent the back pay
14 represents wages and compensation that would otherwise be
15 included as Section 415 compensation under this Subsection.

16 (6) In accordance with Section 401(a)(17) of the Code, for
17 purposes of calculating contributions payable to the Fund and benefits
18 payable from the Fund, "salary," "annual salary," and "average annual
19 salary" *shall* be subject to the annual limit on compensation under
20 Section 401(a)(17) of the Code, which limit is adjusted automatically
21 for increases in the cost of living under Sections 401(a)(17)(B) and
22 415(d) of the Code. For the plan year ending September 30, 2010, the
23 limit is \$245,000.

24 (7) In accordance with Section 401(a)(25) of the Code, in the
25 case that the amount of the member's benefit payable by the Fund is to
26 be determined on the basis of actuarial assumptions, such assumptions
27 *shall* be specified under Fund documents.

1 (8) In accordance with Section 401(a)(31) of the Code, a
2 “distributee” who is entitled to a distribution may elect, at the time
3 and in the manner determined by the Board, to have any portion of an
4 “eligible rollover distribution” that is equal to at least \$500 (or such
5 other minimum amount required under the Code or Treasury
6 Regulations) paid directly in a “direct rollover” to an “eligible
7 retirement plan.” For purposes of these rules, the following
8 definitions apply:

9 (A) *eligible rollover distribution* means any
10 distribution of all or any portion of a member’s vested benefit,
11 *except* that an eligible rollover distribution *shall not* include:

12 (i) any distribution that is one of a series of
13 substantially equal periodic payments made no less
14 frequently than annually for the life (or life expectancy)
15 of the distributee or the joint lives (or joint life
16 expectancies) of the distributee and the distributee’s
17 beneficiary, or for a specified period of ten years or
18 more;

19 (ii) any distribution to the extent such
20 distribution is required under Section 401(a)(9) of the
21 Code; and

22 (iii) the portion of any distribution that is *not*
23 includible in gross income.

24 Notwithstanding the foregoing, a distribution *shall*
25 *not* fail to be an eligible rollover distribution merely
26 because the distribution consists of after-tax employee
27 contributions that are *not* includible in gross income.

1 However, such portion may be transferred *only* to an
2 individual retirement account described in Section 408(a)
3 of the Code or an individual retirement annuity described
4 in Section 408(b) of the Code (other than an endowment
5 contract), or to a qualified retirement plan (defined
6 contribution or defined benefit) described in Section
7 401(a) of the Code, or an annuity contract described in
8 Section 403(b) of the Code, provided that the qualified
9 trust or annuity contract agrees to separately account for
10 amounts so transferred (and the earnings thereon),
11 including separately accounting for the portion of such
12 distribution which is includible in gross income and the
13 portion which is *not* so includible.

14 (B) *eligible retirement plan shall* mean any of the
15 following accounts or plans to the extent it accepts the
16 distributee's eligible rollover distribution:

17 (i) a qualified retirement plan described in
18 Section 401(a) of the Code;

19 (ii) an individual retirement account described
20 in Section 408(a) of the Code;

21 (iii) an individual retirement annuity described in
22 Section 408(b) of the Code (other than an endowment
23 contract);

24 (iv) an annuity plan described in Section 403(a)
25 of the Code;

26 (v) an annuity contract described in Section
27 403(b) of the Code, or

1 (vi) an eligible deferred compensation plan
2 described in Section 457(b) of the Code that is
3 maintained by an eligible governmental employer
4 described in Section 457(e)(1)(A) of the Code, and that
5 agrees to separately account for amounts transferred into
6 such plan from this plan.

7 (C) A distributee includes a member, the surviving
8 spouse of a deceased member, and the current or former spouse
9 of a member who is an alternate payee under a qualified
10 domestic relations order that has been approved by the Board.

11 (D) A direct rollover is a direct payment by the Fund to
12 the eligible retirement plan specified by the distributee.

13 (E) A non-spouse beneficiary may elect a direct
14 rollover to an individual retirement account or individual
15 retirement annuity described in Paragraph (B)(ii) or (iii)
16 established for the purpose of receiving the distribution on
17 behalf of the non-spouse beneficiary.

18 (F) A distributee may elect a direct rollover to a Roth
19 IRA, as described in Section 408A of the Code, *if* the
20 distributee meets the requirements that apply to rollovers from a
21 traditional IRA to a Roth IRA (i.e., for tax years prior to
22 January 1, 2010, the distributee's modified adjusted gross
23 income *cannot* exceed \$100,000, and the distributee *must not* be
24 married filing a separate return).

25 (G) In prescribing the manner of making elections with
26 respect to eligible rollover distributions, as described above, the
27 Board may provide for the uniform application of any

1 restrictions permitted under applicable sections of the Code and
2 Treasury Regulations, including a requirement that a distributee
3 may *not* elect to make a direct rollover from a single eligible
4 rollover distribution to more than one eligible retirement plan.
5 The Board may require a recipient plan to provide a written
6 statement that it will accept the rollover and separately account
7 for the amount rolled over, where appropriate.

8 (H) Prior to making an eligible rollover distribution,
9 the Board *shall* provide the distributee a notice describing the
10 distributee's right to make a direct rollover to an eligible
11 retirement plan (the "402(f) Notice"). The Board *shall* issue the
12 402(f) Notice *at least* 30 days, but *no more than* 180 days, prior
13 to the date a distribution is made. However, such eligible
14 rollover distribution may commence *less than* 30 days after the
15 notice is given, provided that the 402(f) Notice clearly informs
16 the distributee that the distributee has the right to a period of *at*
17 *least* 30 days after receiving the notice to consider the decision
18 of whether or not to elect a direct rollover, and the distributee,
19 after receiving the notice, affirmatively elects a distribution.

20 (9) In accordance with Section 401(a)(37) of the Code, the
21 Uniformed Services Employment and Reemployment Rights Act of
22 1994 (USERRA), as amended, provides certain pension benefit rights
23 to employees who return to employment with their employer
24 following a leave of absence for "qualified military service" as
25 defined hereunder. §8137.2 of this Chapter also provides certain
26 rights to employees who are on leave without pay and on active duty
27 with the Guam National Guard or the reserve components of any of

1 the Armed Services of the United States. Any member who returns to
2 employment with the government following qualified military service
3 *shall* be entitled to the greater of the rights the member is entitled to
4 under §8137.2 of this Chapter, or the reemployment pension rights in
5 Section 414(u) of the Code. In the case of a member who dies while
6 performing qualified military service, the survivors of the member are
7 entitled to any additional benefits (other than benefit accruals relating
8 to the period of qualified military service) provided under the Fund
9 had the member resumed and then terminated employment on account
10 of death. This would include the death benefits provided under
11 §§8131 and 8134 of this Chapter. For purposes of this Section and
12 applying the requirements of the USERRA, *qualified military service*
13 means such term as defined in Section 414(u)(5) of the Code (any
14 service in the U.S. Armed Forces - Army, Air Force, Navy, Marines,
15 or Coast Guard; the Army National Guard and the Air National
16 Guard, when engaged in active duty for training, inactive duty
17 training, or full-time National Guard duty; the commissioned corps of
18 the Public Health Service; and any other category of persons
19 designated by the President in time of war or national emergency).”

20 **Section 5. Severability.** If any of the provisions of this law or its
21 application to any person or circumstance is found to be invalid or contrary to law,
22 such invalidity shall not affect other provisions or applications of this law which
23 can be given effect without the invalid provisions or application, and to this end the
24 provisions of this law are severable.



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

MAR 22 2013

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Una Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio
Chairperson, Committee on Rules

RE: Committee Report on Bill No. 47-32 (LS), As Introduced

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 47-32 (LS), as introduced, "An Act to add a new Section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund", sponsored by Senator Vicente (ben) Cabrera Pangelinan, referred to the Committee, the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement, and Land.

Committee votes are as follows:

4 TO PASS
0 NOT TO PASS
2 TO REPORT OUT ONLY
0 TO ABSTAIN
0 TO PLACE IN INACTIVE FILE

Si Yu'os Ma'åse',

Vicente (ben) Cabrera Pangelinan
Chairman

2013 MAR 25 AM 9:18

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

**COMMITTEE REPORT
ON**

Bill No. 47-32 (LS)

**Sponsored by Senator Vicente (ben) Cabrera
Pangelinan**

**An Act to add a new Section 8103.1 to Article 1,
Chapter 8, Title 4 of the Guam Code Annotated
to comply with Internal Revenue Code
requirements applicable to the Government of
Guam Retirement Fund.**



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

MAR 22 2013

MEMORANDUM

To: All Members
Committee on Appropriations, Taxation, Public Debt, Banking,
Insurance, Retirement, and Land

From: Senator Vicente (ben) Cabrera Pangelinan
Committee Chairperson

Subject: Committee Report on Bill No. 47-32 (LS), As Introduced

Transmitted herewith for your consideration is the Committee Report on Bill No. 47-32 (LS), As Introduced, "An Act to add a new Section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund", sponsored by Senator Vicente (ben) Cabrera Pangelinan.

This report includes the following:

1. Committee Voting Sheet
2. Committee Report Narrative
3. Copy of Bill No. 47-32 (LS), As Introduced
4. Public Hearing Sign-in Sheet
5. Copies of Written Testimonies
6. Copy of COR referral Bill No. 47-32 (LS)
7. Copy of letter requesting Fiscal Note
8. Copy of the Public Hearing Agenda

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact my office.

Si Yu'os Ma'åse',

Vicente (ben) Cabrera Pangelinan
Chairman

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

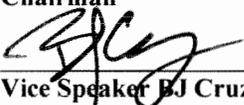
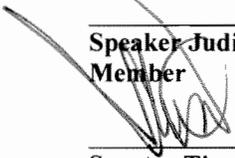
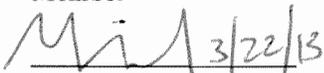
Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

I MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN

Committee Voting Sheet

Committee on Appropriations, Public Debt, Legal Affairs, Retirement,
Public Parks, Recreation, Historic Preservation and Land

Bill No. 47-32 (LS) An Act to add a new Section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund.

Committee Members	To Pass	Not To Pass	Report Out Only	Abstain	Inactive File
 Senator Vicente (ben) Cabrera Pangelinan Chairman	✓ 3/22/13				
 Vice Speaker BJ Cruz Vice Chairperson					
 Speaker Judith T. Won Pat Member	✓				
Senator Tina Rose Muña-Barnes Member			✓ 3/22/13		
Senator Dennis Rodriguez, Jr. Member					
 Senator Michael San Nicolas Member			✓		
Senator Tommy Morrison Member					
 Senator Michael Limtiaco Member	✓ 3/22/13				



I Mina'trentai Dos na Liheslaturan Guahan

Senator Vicente (ben) Cabrera Pangelinan (D)

Committee Report

Bill No. 47-32 (LS), "An Act to add a new Section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund",

I. OVERVIEW

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land convened a public hearing on March 12, 2013 at 9:00am in *I Liheslatura's* public hearing room.

Public Notice Requirements

Notices were published in the newspaper of general circulation as required by the Open Government Law and disseminated via hand-delivery and e-mail to all senators and broadcasting outlets on March 5, 2013 (5-Day Notice), and again on March 8, 2013 (48 Hour Notice).

(a) Committee Members and Senators Present

Senator Vicente (ben) C. Pangelinan, Chairman
Vice Speaker BJ Cruz, Vice Chairman
Senator Tommy Morrison, Member
Senator Mike Limtiaco, Member
Senator Frank Aguon

(b) Appearing before the Committee

Mr. Joe T. San Agustin, Chairman of the Government of Guam Retirement Fund
Ms. Paula Blas, Director for the Government of Guam Retirement Fund
Mr. Vince Camacho, Legal Counsel for the Government of Guam Retirement Fund
Attorney Phil Tydingco, Chief Deputy Attorney General of Guam

(c) Written Testimonies Submitted

Government of Guam Retirement Fund Position Statement
Government of Guam Retirement Fund Summary of Changes under the EGTTRRA Plan Amendment
Joanne L. Grimes, Carlsmith Ball, LLP
Mr. John Camacho, Director of the Department of Revenue & Taxation

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

II. COMMITTEE PROCEEDINGS

(a) Bill Sponsor Summary

Chairman Pangelinan. The next bill on the agenda is Bill No. 47-32, An Act to Add a New Section 8103.1 to Article 1, Chapter 8, Title 4 Guam Code Annotated, to comply with the Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund. We have this morning signed up to testify Mr. Phil Tydingco and we see representatives from the Retirement Fund. Mr. Speaker Joe T. San Agustin, Chairman of the Fund is here as well as Ms. Paula Blas and other representatives of the Fund. Mr. Vince Camacho, the attorney for the Fund. We also had testimony submitted by Mr. John Camacho. Did he submit written testimony? Ok, alright, we'll go ahead.

Bill No. 47 was introduced at the request of the Retirement Fund basically to ensure that the tax treatment of the Fund remains consistent with the original intention when the Fund was established and to comply with the Internal Revenue Code to keep the Plan as a Qualified Plan as required. And so, the Fund had approached the Committee and sought our assistance in putting in the necessary legislation to address the issue on the defined benefit plan. We were able to make those changes to the defined contribution plan when we first established them, but we needed additional changes in the statute and affirmations by statute required to maintain the tax qualifications that is of the defined benefit plan.

We'd like to go ahead and have the Retirement Fund representatives make their presentation and then the Attorney General of Guam also has additional testimony on the bill. We want to welcome Mr. [former] Speaker Joe T. San Agustin.

Mr. Joe T. San Agustin. Mr. Speaker, thank you and the members of the Committee. This bill is more or less under the gun because of the deadline that the federal government has kind of imposed on us. There are many things in this bill that maybe need some clarification and some doubts, but we're not quite sure. But we're under the gun, in a sense, to get it in, and thank you Mr. Chairman for introducing it and it has been under review for quite some time.

The history of the public pension plan in the entire United States, public pension plans usually come under the state government. It's never been under the U.S. government. And private pension plans were under a stabilization board later on because of the problems that they have had in private industry. And over the years the public pension plans are having a problem as in most states are having problems meeting their unfunded liability. Secondly, the problem also is that people are moving all over the country and there are people retiring in one state and move to another state and therefore they have a real problem of the annuities whether they are subjected to various jurisdictions.

I think that the federal government felt that they needed to equalize, that they needed to put everyone on the same playing field. But this bill that was passed in 2001 overshadowing all pension plans, including private pension plans. It has our own version, as you know, our own defined benefit plan enacted since 1952, we have our own ruling because of the mirror tax code, we always rely on our own local revenue and taxation ruling making our plan qualified as a tax

exempt plan. As a matter of fact, there has been rulings that we didn't need to do so because it's a recognized public pension plan. But all the rules, with the modifications of different plans, there was some confusion in publications in different jurisdictions. So this bill was developed into that kind of trying to do some compromise and universality so to speak. But in this bill, you're going to raise some questions and there are people within the government itself, the AG and yourself, and our own revenue and taxation and even our own counsel, we're still going to have some kind of understanding (inaudible).

There are things that are added into this bill that the federal government wants us to add which isn't necessarily in our local bill. As an example, the mandatory age of 70 and a half years of age, we don't have any mandatory age in our plan. But the fact that we put it in, that in itself becomes a mandatory age. There are other provisions we need to clarify so our testimony, our presentation at the same time perhaps we'll have the legal requirement of having a public hearing and in between the mark up we'll try and get all the representation on the table at your convenience, to clarify all the little things. We don't want to jeopardize the over 2,000 retirees that are living abroad, in the states, that their annuity payments are subject to a state tax or some kind of taxation while they are there. At the same time we don't want to rob people that may have to roll over some of their plans to another plan who will be subject to some interpretation. And we're seeing a lot of those things that happened who work so hard, and all of sudden, when they change plans to another plan, they lost all their time and earnings, and time that you contributed to that plan.

So we want to be very very sure, I mean we have a history since 1950, 52 up to now, so far, our plan has been doing very well. And I think we just want to make sure that we are covered so that we don't jeopardize our current members or the future retirees. So I beg your indulgence to listen to our presentation from both Vince Camacho and Paula and then from the Attorney General. Thank you.

Chief Deputy Attorney General Phil Tydingco. I hadn't planned to provide any direct testimony, it was just going to be a request to participate in a mark up so we can sit down. The Fund's attorneys understand why they believe there is a need for introducing this bill and why they think the qualified tax exempt status, we have a different read. If they would just explain it to us, we would be okay with that too. So just asking for a mark up, I wasn't going to add anything more. Thank you.

Chairman Pangelinan. Okay, alright. But you are saying that your reading is different?

Chief Deputy Attorney General Phil Tydingco. Well we're not experts at the ERISA or any of that, but preliminarily, our tax lawyer says why is there a need and so we just need someone that delves into this area. I assume that their attorneys do. Explain to us why there is this need to have this in our bill, because it also affects the way we interpret other parts of the code because we believe that the code is...we haven't frozen our local (inaudible), so we think the amendments that occur federally also apply here. Maybe there's something special about this that we don't know or understand so we'd like to request a mark up so we can sit down with the Fund's lawyers and experts so they could explain it to us.

Chairman Pangelinan. Okay, alright. Ms. Blas? Mr. Camacho?

Mr. Vince Camacho. Thank you Mr. Chairman and Senators here. The catalyst to the...

Chairman Pangelinan. Please identify yourself for the record.

Mr. Vince Camacho. I'm sorry. Vince Camacho legal counsel for the Retirement Fund. The catalyst to the change happened actually under the Economic Growth and Tax Reconciliation Act of 2001. If you all recall what happened in 2001, we had the 911 events, we had the downturn in the securities market, and so what that led to was a lot of unfunded pension plans in addition to a lot of value lost in 401k plans, as Mr. Chairman alerted to earlier.

Before the federal government had a lot of governance over private pension plans and sort of let the government pension plan area out of its purview. But because of that downturn and because of a lot of the unfunded mandates of the state and local governments for their pension plans, the federal government felt that there was a need to sort of determine what are valid governmental plans. And so in order to do that they required certain changes to some of the governmental plans to either opt-in to be a qualified plan or remain outside and opt-out and remain unqualified. Now some of the benefits for being qualified, and this may be answering some of the AG's questions is, yes, our current statute in Guam DB statute is under the purview of Revenue and Taxation, so today, Revenue and Taxation can say yes, we're not going to enforce any of the provisions of EGTRRA, we're not going to apply it.

However you have two thousand some who live off island who live under the jurisdiction of the IRS and without a qualified plan, the IRS is subject to taxation of any of that money in addition to what they've already included in the income tax. So we don't know how the IRS is going to necessarily treat our two thousand retirees in other US jurisdictions because they fall under the purview of the IRS and not Revenue and Taxation. So that is one of the biggest reasons why if we just have the blanket coverage, whoever decides to leave any future retirees who wants to go to move to the mainland, the qualified status would protect their tax liability as to the way it is now.

The other danger for having an unqualified plan is, right now the Fund doesn't pay any income taxes on any of their investment gains. So the danger is in the future of IRS treasury regulations comes down and for not unqualified plans, all those investment earnings which I think in one year, is \$171 million for the Fund can be taxed to the retirees or the members every year that the Fund makes money. And so because of the unqualified status, it doesn't enjoy their tax exempt status of the gains of the investment. And so that's a huge danger in and of itself.

Other than that, yes, the provisions are pretty broad and we were talking with Revenue and Taxation earlier, they just want a better understanding of what their role is going to be in terms of enforcing this new legislation. And so we agreed to be able to sit down with them and the Attorney General to sort of explain to them why these provisions need to be addressed to qualify the government of Guam DB plan. Now I just want to remind the panel that we only have until April 3rd to meet the IRS deadline. So the Governor has to sign this bill if he deems able to, by April 3rd otherwise we automatically become unqualified.

Chairman Pangelinan. Yes, and that's why we understand that we have a session scheduled for later this month and we'll certainly ask to prioritize this bill and transmit it to the Governor. I'm sure it'll be helpful when we sit down with the Attorney General between now and session when we prepare the final version of this bill so that they can then maybe also give advice to the Governor in terms of their understanding that may facilitate the legal review at Adelup. We certainly will commit making the arrangements needed to facilitate the discussion and the understanding from the Attorney General's office as well as any member of the Legislature that may have additional questions.

Vince, when you mentioned that the earnings of the Fund may be taxed to the beneficiaries, you just mean the earnings of the Fund, they're not like, in some of your investments where your tax liability is distributed amongst all the members on an individual basis, it's just the collective tax that would be on the earnings which removes it from the beneficiaries ability to access that because now it's paid in taxes rather than retained as an investment income/gain of the Fund?

Mr. Vince Camacho. No, it'll actually be taxed as income to the beneficiaries.

Chairman Pangelinan. Okay, right so that income distributed among all the beneficiaries..

Mr. Vince Camacho. On paper only.

Chairman Pangelinan. On paper only, right.

Mr. Vince Camacho. And then the next year, if the Fund experiences a loss, then they can offset that. But it is an administratively nightmare.

Chairman Pangelinan. Yes. Right, right. Because in some of the mutual funds or some of the investment income, it's a return on capital versus income gained which then gets a different tax treatment.

Mr. Vince Camacho. Correct.

Chairman Pangelinan. So you may have some of your investments, the income is a return on capital rather than income gained which is another way of treating the tax so you have all of these different funds that you make investments in, which are treated differently because of the type of investments you make, treat them and distribute them to you.

Mr. Vince Camacho. Correct and in this case, what would happen is they would probably be already, I mean the tax liability would be huge because you would have the employers contribution, which is not their share, so it doesn't come out of their corpus. So that's additional income tax on top of the gains. There will be the components involved there.

Chairman Pangelinan. Right, ok. Mr. Vice Speaker?

Vice Speaker BJ Cruz. No just a suggestion that when we have the round table, maybe the Governor's legal counsel. I know it may seem appropriate to invite them, but we may need to get the in early because there seem to be time with session scheduled for the 25th and signature due by the third.

Mr. Vince Camacho. Well I know this went under review with Revenue and Taxation. Revenue and Taxation has reviewed this and has issued a tentative approval pending passage of this legislation. And so the entire packet was submitted to them January of 2011 and they issued a determination in March of 2011.

Chairman Pangelinan. Senator Morrison? Senator Limtiaco? Ok. Alright, if there are no further testimonies today, the record will remain open. We'll continue to work with it. We'll contact you for any additional meeting that we'll need to arrange to facilitate the discussion with the Attorney General. Thank you very much Mr. Speaker for your presence.

III. COMMITTEE PROCEEDINGS FOR ROUNDTABLE MEETING

Friday, March 15, 2013

2:00 PM

Guam Legislature Public Hearing Room

Present at the Hearing:

Chairman Vicente (ben) Cabrera Pangelinan

Senator Frank Aguon

Senator Chris Duenas

Senator Tommy Morrison

Senator Michael Limtiaco

Also in Attendance:

Mr. John Camacho, Director for the Department of Revenue & Taxation

Ms. Reine Salas, Department of Revenue & Taxation

Ms Paula Blas, Director for the Government of Guam Retirement Fund

Mr. Joe T. San Agustin, Chairman of the Government of Guam Retirement Fund

Mr. Vince Camacho, Legal Counsel for the Government of Guam Retirement Fund

Attorney Phil Tydingco, Chief Deputy Attorney General of Guam

Attorney Tim McLaughlin, Office of the Attorney General

INTRODUCTION

Chairman Pangelinan. Thank you very much ladies and gentlemen welcome to the continuation of this meeting called at the request of the Attorney General and the Retirement Fund to continue discussion on the matter of Bill No. 47-32, An Act to Add a New Section 8103.1 to Article 1, Chapter 8, Title 4 Guam Code Annotated to comply with the Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund.

We have with us this afternoon to my left, my colleagues, Senator Chris Duenas and Senator Tommy Morrison, thank you very much for joining us. And of course we have the Chairman of the Retirement Fund, Former Speaker Joe T. San Agustin, the Director of the Retirement Fund Ms. Paula Blas, and their legal counsel Mr. Vince Camacho. We also have representatives from the Department of Revenue and Taxation, welcome Mr. Camacho and your staff and of course the Office of the Attorney General represented by Phil Tydingco and Mr. Tim McLaughlin.

This is an informal meeting in order to bring about any questions that we may have. We have passed out a copy of the bill plus a synopsis of the Retirement Fund Board's position on the bill. We'll go ahead and once again just for those that are listening and that are tuning in today, Bill 47 was authored by myself while working in conjunction with the Retirement Fund and the objective of the bill is to ensure that the tax qualification status of the defined benefit plan will continue to meet IRS requirements and be a qualified plan in accordance with the Internal Revenue Code.

There were requirements under the EGTRRA 2001 tax legislation changes that required state plans to become qualified to adopt certain controls and measures. This is the suggested language that has been presented to this legislative body by the Retirement Fund and its legal counsel. We'll go ahead and have the [former] Speaker make any opening statements once again and then we'll proceed with the details of the bill.

Mr. Joe T. San Agustin. Thank you Mr. Speaker for giving us the opportunity to meet and try to discuss these particular and very substantial changes to our plan. What it really means is that the federal government has been very concerned with the changes that were made throughout the public pension system around the country. The private pension system problems have actually been resolved by the federal government developing its own government board. Because of the fact that most of the plans in the private pension system have gone bankrupt and not able to make it or the companies in the past have failed to contribute to that particular plan so the federal government had to step in to protect the private employees, but now it is being done for the public pension system. In the past it has always been recognized that each state has its own sovereignty, each state has its own right to develop its own plan.

But what is happening during these years is that public pension systems in the country have also gone bankrupt. Many cities, particularly in California, have pension systems in jeopardy and the unfunded portion has gotten to a point that it no longer can continue. What the federal government wants to do is to provide some uniformity throughout the system for public pension systems. This bill essentially was introduced in such a way to conform with and join in a sense the crowd, so that our members may not be in jeopardy where ever they go. So that plan will be recognized as a qualified tax exempt plan, whether in California, in Connecticut, and in Guam. So I thank the Attorney General and our own legal counsel and we ask Revenue and Taxation because of the mirror tax code.

They are basically the Commissioner and they will have to enforce this and I'm glad that they were able to come to this afternoon to resolve it. Our Board is concerned that this law if not passed within the time constraints established, that we may have the entire plan in jeopardy. So

there's a sense of urgency to get this through Mr. Speaker and I really appreciate you taking time to schedule this afternoon so that hopefully we get this law adopted by the end of the month. Thank you

Chairman Pangelinan. Thank you very much Mr. Speaker, Mr. Chairman. Ms. Blas, did you want to add anything? Vince? Ok. John, the requirement of the certification of the plan in the acceptance of its compliance with the Internal Revenue Code has to come from Revenue and Taxation?

Mr. John Camacho. That is correct Mr. Speaker.

Chairman Pangelinan. Has Revenue and Taxation reviewed the bill and the changes that are being made? Would this in your opinion then, suffice to meet the requirements of the Internal Revenue Code to certify the defined benefit plan as a qualified plan?

Mr. John Camacho. Right now Speaker, we are basically going over the bill, making sure. As you know we got this back in 2011 where we preliminarily approved this plan.

Chairman Pangelinan. That's correct.

Mr. John Camacho. Basically we're looking at...right now our staff, which is Reine Salas, is looking at it. This bill came out and we're just making sure that all the provisions of the bill that applies to the 401a and the other subsections or paragraphs that apply are in fact in compliance. So we will probably be putting out a testimony early next week once we finish the completion of this bill. From there we can move forward.

Chairman Pangelinan. Ok, Mrs. Salas, in your preliminary review, have you had an opportunity to look at the bill.

Ms. Reine Salas. Yes, and we also met with the people from the Retirement Fund and so we had some questions that we are in the middle of answering. We're trying to tie in, not only to 401a, but in the plan itself that the plan is not severely touched or not touched at all preferably and that it remains the same, even despite the fact that 401a requirements have to be met. So until, hopefully by early next week we'll have the answer to that. And if there's any changes, we'll let you know by that time.

Chairman Pangelinan. Ok, and the answer will be provided by...is that the Attorney General's Office or just out of your own division?

Mr. John Camacho. Well we were kind of working with our legal counsel Tim, so when we actually provide a testimony on this bill, we'll probably...it's been preliminarily approved back then, but this is the law now that is, a bill that's actually been presented. So we're going over the bill and once we conclude reviewing the bill and we're satisfied, we'll make that final determination.

Chairman Pangelinan. Ok. Now Mr. Attorney General, you said you had some questions on the bill. We would like to get those questions put on the record today so that we can get them answered.

Chief Deputy Attorney General Phil Tydingco. Sure, just to put it in context, I was just asking Tim because Tim McLaughlin is the tax lawyer we've assigned over to Revenue and Taxation. So he's only just gotten on board reviewing it recently and that's why I was just asking for a little time because I knew he was over at Revenue and Taxation and will be looking at this statute and I know that we just had a series of questions we would try to put out there as well as just looking at the references to the 401a and the specific treasury regulations that are affected. I think the only issue is that we wanted to make sure because I guess the tax unit at Revenue and Taxation, their folks also looked at it too apparently since 2011, is to make certain that it doesn't alter whatever the retirees expect the current plan to provide. So that was sort of the general question that I had at the hearing. I really didn't know.

Chairman Pangelinan. Well, which portion of the bill that you have read that makes you uncertain whether or not it alters the plan or not?

Chief Deputy Attorney General Phil Tydingco. Well I didn't know whether, I didn't understand whether the language in there meant that...for example, is that something that is just elected by our plan when it decides to do the, I think there was a reference to the section, whenever the...does Guam's retirement fund get to elect the section in there that says whenever the retiree retires or whenever he reaches 70 and a half, I mean is that electable or not? I assume it is but I didn't want to assume that without running it by Tim if he thought that's what it meant.

Chairman Pangelinan. Ok.

Chief Deputy Attorney General Phil Tydingco. Knowing that our plan doesn't require, have an age cutoff as far as I know, or that kind of requirement. I think another question we had was...

Chairman Pangelinan. Can we get a response from the Retirement Fund on that?

Mr. Vince Camacho. (Inaudible)...they had yesterday...

Chairman Pangelinan. And can you refer to which section of the bill that would be?

Mr. Vince Camacho. Yes, that's actually section.

Chairman Pangelinan. Page 3...

Mr. Vince Camacho. Page 3 (i). Section...and let me just sort of go back to why we're really here today. Generally when you have retirement plans, retirement plans are generally adopted via a plan document.

Chairman Pangelinan. Correct.

Mr. Vince Camacho. Correct. And so when plan documents are governed by the board which has the authority to govern the plan. Like the DC plan, the DC statute in GovGuam calls for the board to adopt the plan document. So for the DC plan all these provisions that were made changes to in the DC plan, we didn't have to do it by statute because the board had the authority to do it by the Plan Document.

As for the defined benefit plan, the statute is the Plan Document. So the only reason why we're actually here today is because the only way to effectuate a change in the plan is to do it by statute and by legislation. So that's why you didn't see the DC plan come before the legislature to make those types of changes and that's why we're here today for the DB. In regards to the age 70 and a half issue, that's just a blanket provision for qualified plans. The reason why that section exists in all plans is in pretax plans and in tax deferred plans individuals are putting money away tax deferred or pretax. So the IRS is saying, hey at least at some point in your lifetime we need to start collecting those income taxes from the pretax money you put away and the tax deferred money that you've earned over the life.

And so what this is saying is that if you are no longer employed, the employer who is sponsoring the plan upon age 70 and a half, you are required to take a minimum distribution. And there's actually a formula to determine what that minimum distribution amount is. Practically speaking, most people under the DB plan can retire at, when you join GovGuam at 20, you can retire in 30 years at 40 or 50, and so 99% of the time this provision is not going to apply, unless you are no longer working with the plan and you're age 70 and a half, then you would have to start taking a minimum distribution. So we did not see, practically speaking, that this would have any huge impact on any of the defined benefit plan members that are currently working because those that are retired already, this provision wouldn't apply since they are already receiving their annuities.

Chairman Pangelinan. And then everybody that's under the plan would probably retire before 70 and a half.

Mr. Vince Camacho. And if you are still working, age 70 and a half, that provision does not apply. It's only when you are no longer working and you still have money in the plan.

Chairman Pangelinan. Ok. So we have that response for the record and John did you have a question?

Mr. John Camacho. That's also one of our questions that we spoke to them about and my staff, Reine is going to further look into that because of the words that they use, the later of. If you look at the last sentence of the (i), it says the required beginning date is April 1st of the calendar year following the later of the calendar year in which the member attains 70 and a half or the calendar year in which the member retires. So she said she'll look into this, so I don't know if you have any...

Ms. Reine Salas. That's verbatim of the law.

Chairman Pangelinan. Right.

Ms. Reine Salas. But my concern is, is it going to alter what we have. Hopefully it...I'm leaning towards not. But we'll know for sure next week.

Chairman Pangelinan. If it's verbatim from the law, how can it be different?

Ms. Reine Salas. No, no, I'm talking about altering the plan as it exists currently without the

Ms. Paula Blas. I guess the concern for Revenue and Taxation was whether or not the provisions were actually going to change the way we calculate service or how we actually retire somebody on age, and it's not.

Chairman Pangelinan. Ok.

Mr. Vince Camacho. There's other provisions in the statute that actually determine the retirement qualification.

Chairman Pangelinan. So this is for the distribution?

Mr. Vince Camacho. Well this is in the event that someone doesn't want to start taking distributions.

Chairman Pangelinan. Ok.

Mr. Vince Camacho. And we do actually have some of those people in the DC plan who are required to take mandatory distributions because they are over age 70 and a half, right.

Chairman Pangelinan. Ok.

Mr. Joe T. San Agustin. There is a situation in the Social Security that if you don't take the age of 65, then you don't join, you get penalized in your contribution. That's in the federal government they took care of that, this one. I think in this one, there is no penalty, the person can still be working at 80, we have people on payroll that don't want to leave.

Chairman Pangelinan. And even with the IRAs and the SEPs, there are mandatory distributions based upon the certain age.

Mr. Joe T. San Agustin. Yes and we have that. I think it provides some uniformity throughout the system. Not only on Guam, but throughout the entire country.

Chairman Pangelinan. Ok. Phil, did you have any...?

Chief Deputy Attorney General Phil Tydingco. I'm just worried that the other states which has adopted verbatim, this language.

Mr. Vince Camacho. For most of the governmental plans, that we...we actually do hundreds, restatements, it's what our tax department does, and it's just everyone adopts the same blanket language that the IRS requires. It's not something that you can carve out a specific provision in order to be determined a qualified plan. So what we're doing here is basically taking a very conservative approach...we don't have to adopt this, I mean if you guys are against adopting this that's fine.

The problem is we don't know in the future, number one, what's going to happen with the future IRS determinations and the taxability. We have over 2,000 GovGuam employee who currently reside, or retirees who currently reside under IRS jurisdictions. The concerns we have for future are the audits. If the IRS decides to audit a GovGuam retiree who lives in the mainland and they find that the plan is unqualified, there could be dire consequences. We don't know, but we just think the better approach is to be more conservative and it doesn't affect the plan, so.

Chairman Pangelinan. Yes, so the key is for the concern of Revenue and Taxation, is does it affect the current plan, does it alter that. And then for us in terms of including this, it is to provide additional protection, I guess, we're convinced that this section does not alter the annuity calculation and the qualification for retirement and that this only protects the tax qualification of the plan.

Mr. Vince Camacho. It actually protects the taxing authority, because now they are able to collect the income taxes from all these...

Ms. Reine Salas. The concern is not just the tax portion but the retirees. Sometimes their ability to retire as the plan exists. So we're looking at a dual (inaudible) for why we're delaying our answer. It's not just the tax portion because as far as we're concerned when the retirees receive their earnings, they report it and we withhold enough so that they can pay it. So it's a dual purpose in the delay we are asking for.

Chairman Pangelinan. Ok.

Mr. Joe. T. San Agustin. May I, I appreciate the comments but I think the plan itself in the context of determining who is qualified and the feasibility and what have you, that is not a taxing issue. Really, the taxing issue is the income that is being...so therefore the Revenue and Taxation's concern about how we calculate the pension system, how do you determine the members, that is not their concern and it's not disturbed by this law itself. It's all intact, how you calculate how many years of service and what have you. So this bill, in and of itself, makes sure that these people are protected in their plan if they should move off island or this is covering uniformity throughout the country basically.

We can not adopt this law and say that for Guam purposes this is tax exempt based on Revenue and Taxation ruling, but the minute you get off the island, you're not. The jurisdiction changes. And that's the only thing we're concerned with. You know, pension systems throughout the country now, we invest worldwide and who knows, we invest money in say in New York, they may subject us to income tax. It's not necessarily the plan itself but the individual members,

the contribution, now that will be a nightmare you're talking about four, five thousand members, individual contribution when they're collectively put together and given to investment managers to invest. That means the income earnings can be subject to taxation. And that's what we want to avoid. And by having this federal cover, this is really a federal umbrella to protect all the public pension systems in our country.

Chairman Pangelinan. Ok, thank you very much. I'd also like to thank Senator Frank Aguon, Jr. for joining us and Senator Mike Limtiaco, Si Yu'os Ma'ase'. So we've resolved that question, Phil, any other additional...?

Chief Deputy Attorney General Phil Tydingco. I assume the answer is yes, so if he looks it up we're going to see that all 50 states have adopted this language. That was my question, my specific question.

Chairman Pangelinan. Ok.

Chief Deputy Attorney General Phil Tydingco. So, I assume it means yes.

Mr. Vince Camacho. I cannot vouch for for all 50 states, just the ones we have adopted the provisions for in the plans we handle.

Chief Deputy Attorney General Phil Tydingco. Well, I'm just wondering why...anyway, we'll just look it up. That was the question. Well, it seems like a no-brainer, why wouldn't any state want to do it if its to protect the pension plan. That's all our inquiries are, just to understand it.

Chairman Pangelinan. Any other specific concerns that...

Mr. Joe T. San Agustin. You see, in a pension in a private corporation, they are mandated because they control the corporation if it goes bankrupt. But in the public pension system, the federal government recognizes the sovereignty of each state and therefore they say for uniformity, you opt in or opt out. That's always been a practice of the federal government. You have a choice to opt in or opt out because of the sovereignty.

Chief Deputy Attorney General Phil Tydingco. For the territories, we have no choice. We have no way of knowing which we know is our experience with federal laws. So that's why we have to sort of drill and look at it a little closer because our jurisdiction is so unique you can't apply a uniform rule as the applicability. In fact when we swear, it's always about the applicable laws to the territory.

Chairman Pangelinan. But we do have rulings that say the IRS code is applicable to Guam in a mirror basis.

Chief Deputy Attorney General Phil Tydingco. And even that is specific to particular chapters that may have been adopted at the time. Like for example, we've already seen in Obamacare, the excise tax portion doesn't apply so that's why I say it's not always, you can't

just broad brush this. And so that's why we are just making the inquiry. So I respectfully disagree with the Speaker that it's uniform that way because it's not always, because we always find out differently that you can't just generalize the applicability of the federal law.

Chairman Pangelinan. Ok, any other concerns? Any other specific concerns of the contents of the bill as it relates to...

Ms. Reine Salas. There was a deadline of April 4th or 5th depending on the calculation and it's based on a 90/100 day deadline and when we were talking yesterday during the meeting they mentioned when the session begins, the first session of the Guam Legislature. If I can get, I'm planning on sending the Retirement Fund an email requesting for specific sites as to where we can find those issues because it's unusual to hear first session anywhere regarding when to file a certain, it's normally the end of the plan year. I'm concerned about the deadline. I'm also concerned about plan year because apparently nothing is in the law that talks about plan year for the DB plan. But for government of Guam it would be September, normally the end of the year, September 30th. So that's another issue. And then of course the big one was that we must meet the government plan 401a, which is the intent of the law to start off with. And generally, they let the plans have the choice of either opting into 401a or not. And it reads as though there's no choice.

Chairman Pangelinan. Well, I think that the issue is whether you opt in to be a tax qualified plan or opt out to be a tax qualified plan and there is no choice in this case. I agree, there is no choice, we want to be a tax qualified plan.

Chief Deputy Attorney General Phil Tydingco. You want to be tax qualified.

Ms. Reine Salas. You want to be. There's a difference between want to be and have to be.

Chairman Pangelinan. Well...

Mr. Vince Camacho. Let me just speak to that real quickly. Prior to EGTRRA, you're right, governmental plans were not governed. They didn't have to be qualified, they could act as if they were qualified, and people can treat them. But with the passage of EGTRRA it said you have to either be a qualified plan by meeting certain 401a provisions which is what the bill is trying to do. The evidence of meeting those conditions to be a qualified plan is Revenue and Taxation's determination. And so that's all we're trying to do here. I mean, we wouldn't even be here like I said, if it was a plan document and the board had the right to adopt it. So, notwithstanding the issues that Mrs. Salas is bringing up as to the plan year...the plan year is set. It's actuarial year, October 1st to September 30th. The other issue regarding the deadline, is, the deadline she speaks of is the deadline to finally amend your document. Because the deadline was actually January 2011.

Chairman Pangelinan. And that's why we got the conditional qualification.

Mr. Vince Camacho. Correct, and that's why we got the conditional qualification. So we got that, now what it did was the extension, that language that she refers to is the language that we, and the time period we have as the Fund to amend plan document.

Chairman Pangelinan. To the plan document, which is to amend the statute in this case because the statute is the plan document. Ok, so I think that's how we're moving here and why we're trying to do this. This is the only way we can amend the plan document.

Mr. Vince Camacho. Right, right.

Chairman Pangelinan. And we have a deadline to amend the plan document after the conditional certification.

Mr. Joe T. San Agustin. You could give the board the right to...

Chief Deputy Attorney General Phil Tydingco. That's actually the easiest.

Mr. Joe T. San Agustin. That's what they did in the DC. But the DB has been established in 1952, so there was no such thing as independent board at that time.

Chairman Pangelinan. So I think we kind of clarified that a little, but still, sure subject to the determination of Revenue and Taxation. So, any other concerns?

Chief Deputy Attorney General Phil Tydingco. No.

Chairman Pangelinan. So when can we expect the response John from the Retirement Fund.

Mr. John Pangelinan. I guess my appeals officer or reviewer for this...early next week.

Chairman Pangelinan. Early next week? Ok. The timeline we're dealing with of course is that we go into session on March 22nd I believe. So we would like to ensure that you get us the testimony of the Fund, the Attorney General, any additional concerns that we may have that suggested language that you think may need to be amended that we can all once again have an opportunity to review and work with and then the Committee will begin the preparation of the work for the Committee Report. And any amendments to the bill presented that may be required and agreed to.

Chief Deputy Attorney General Phil Tydingco. Is that next Monday?

Chairman Pangelinan. No...

Chief Deputy Attorney General Phil Tydingco. The middle of the following week.

Chairman Pangelinan. So, we'll basically have next week to finalize and look at this, ok? So everybody is aware of that deadline? Ok. And any comments or questions from the members? Ok, if not, if there's no additional discussion we thank everyone for your due diligence and your desire to continue to work on this legislation to ensure we resolve the issues, that will ensure that once we get the bill, that it will move forward in terms of one, the objective is to ensure that the defined benefit plan remains a tax qualified plan and that secondly that the adoption of provisions as required by the EGTRRA will ensure and protect the pensions of the annuitants with regards to their taxation applicability.

Si Yu'os Ma'ase. There being no further discussion on Bill 47-32, this concludes the proceedings on Bill No. 47-32 and this Committee hereby adjourns the hearing.

The Committee will continue to remain open for the acceptance of any additional information or public testimony on the bill discussed. You can submit those testimonies to my office directly on 324 Soledad Avenue, as well as the Guam Legislature or through any of the electronic processes either email at senbenp@guam.net or through our website at senbenp.com

IV. FINDINGS & RECOMMENDATIONS

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land, hereby reports Bill No. 47-32 (LS) with the recommendation To PASS.

MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) REGULAR SESSION

Bill No. 47-32(LS)

Introduced by:

v.c. pangelinan 

AN ACT TO ADD A NEW SECTION 8103.1 TO
ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE
ANNOTATED, TO COMPLY WITH INTERNAL REVENUE
CODE REQUIREMENTS APPLICABLE TO THE
GOVERNMENT OF GUAM RETIREMENT FUND

2013 FEB 19 AM 11:17 

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **SECTION 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that
2 Article 1, Chapter 8, Title 4 of the Guam Code Annotated must be amended to comply with the
3 requirements for tax-qualified governmental pension plans under section 401(a) of the United
4 States Internal Revenue Code of 1986, as amended, applicable to Guam under the mirror
5 provisions of the Guam Territorial Income Tax Code.

6 **SECTION 2. A new Section 8103.1 of Article 1, Chapter 8, Title 4 of the Guam**
7 **Code Annotated is hereby added to read as follows:**

8 **“§ 8103.1. Tax Qualification Requirements.**

9 (a) The Fund shall maintain its status as a tax-qualified governmental pension plan
10 under section 401(a) of the Code. As used in this Article, “Code” means the United States
11 Internal Revenue Code of 1986, as amended, applicable to Guam under the mirror provisions of
12 the Guam Territorial Income Tax Code.

13 (b) The Fund shall be administered in accordance with the requirements of section
14 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and (37) of the Code, as such provisions, as
15 amended, apply to a governmental pension plan sponsored by the Government of Guam.
16 Without limiting the generality of the foregoing and notwithstanding any other provision of this
17 Article to the contrary:

Edwin K.W. Ching

P.O. Box 326478
Hagatna, Guam 96932
cell: 671-988-1084
ekwching@gmail.com

Guam Legislature
Public Hearing on Bill 19-32

Re: Bill 19-32

First, I apologize for not being able to personally appear before you at the public hearing held on February 1, 2013, at 9:00 am. Due to prior commitments, I was not able to attend. However, I wish to let my opinion be heard. Next, I apologize for some strong statements contained in this letter; however, I personally feel that it is time to say how I actually feel and think without "pulling any punches".

I strongly object to the passage of Bill 19-32 for the following reasons:

1. Section 2. Amendment to §6105.

This section allows the Commission to have:

“. . . full and exclusive authority to promulgate rules and regulations related to gaming without any approval by, or delegation of authority from the Department . . . Until such time that the Commission has been seated and is officially performing its duties. . .”

Even if such authority may be temporary, this law gives a single person to make rules and regulations without guidance, input from others, consultation, review, or approval of the legislature or anyone. The person making such rules is technically a "dictator" without review or supervision by anyone. The rules he/she may establish may be unreasonable, nonsensical, ridiculous, unfair, etc. and who can question or challenge him/her. There is no control here and problems will arise. He/she will be in a very strong and powerful position. Where are the checks and balances here? Who is he/she accountable to?

2. Section 4.

This Section establishes a 20% gaming tax on all gross receipts from gaming activities that do not have a specified tax rate. The 20% rate is excessive and it totally

1 (b) The Fund shall be administered in accordance with the requirements
2 of section 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and (37) of the Code, as
3 such provisions, as amended, apply to a governmental pension plan sponsored by
4 the Government of Guam. Without limiting the generality of the foregoing and
5 notwithstanding any other provision of this Article to the contrary:

6 (1) In accordance with sections 401(a)(1) and 401(a)(2) of the
7 Code, the Board shall hold the corpus and income of the Fund in trust, and at
8 no time prior to the satisfaction of all liabilities with respect to members and
9 their beneficiaries shall any part of the corpus or income of the Fund be used
10 for, or diverted to, purposes other than for the exclusive benefit of the
11 members and their beneficiaries.

12 (2) In accordance with section 401(a)(7) of the Code, in the event
13 of the termination of or complete discontinuance of contributions to the
14 Fund, the rights of all members to benefits accrued as of the date of such
15 termination or discontinuance, to the extent then funded, shall be fully
16 vested and nonforfeitable.

17 (3) In accordance with section 401(a)(8) of the Code, benefits
18 forfeited by a member for any reason shall not be applied to increase the
19 benefits any other member or beneficiary would otherwise receive under this
20 Article.

21 (4) All benefit distributions shall be administered in accordance

**Bureau of Budget & Management Research
Fiscal Note of Bill No. 353-31 (COR)**

AN ACT TO REZONE LOT NO. 10060 REM-3-R3 IN THE MUNICIPALITY OF DEDEDO FROM SINGLE FAMILY/MULTI FAMILY DWELLING ("R1/R2") TO COMMERCIAL ("C") ZONE.

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Land Management	Dept./Agency Head: Monte Mafnas, Acting Director
Department's General Fund (GF) appropriation(s) to date:	640,932
Department's Other Fund (Land Survey Revolving Fund) appropriation(s) to date:	2,885,837
Total Department/Agency Appropriation(s) to date:	\$3,526,769

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2011 Unreserved Fund Balance ¹		\$0	\$0
FY 2012 Adopted Revenues	\$0	\$0	\$0
FY 2012 Appro. (P.L. 31-75 & 31-77)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2012 (if applicable)	FY 2013	FY 2014	FY 2015	FY 2016
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

- Does the bill contain "revenue generating" provisions? / x / Yes / / No
If Yes, see attachment 1/
- Is amount appropriated adequate to fund the intent of the appropriation? / x / N/A / / Yes / / No
If no, what is the additional amount required? \$ _____ / x / N/A
- Does the Bill establish a new program/agency? / / Yes / x / No
If yes, will the program duplicate existing programs/agencies? / x / N/A / / Yes / / No
Is there a federal mandate to establish the program/agency? / / Yes / x / No
- Will the enactment of this Bill require new physical facilities? / / Yes / x / No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / x / Yes / / No
/ x / Requested agency comments not received by due date / / Other: _____

Analyst: <u>Evelyn G. Fernandez</u>	Date: <u>11/16/11</u>	Director: <u>John A. Rios</u>	Date: <u>11/16/11</u>
Evelyn G. Fernandez, BMA III		John A. Rios, Director	

Footnotes:
1/ There is a potential for additional revenues to the Government of Guam in terms of real property and income taxes due from ensuing business activities as a result of rezoning Lot Number 10060 Rem 3-R3 from Single Family/Multi-Residential ("R1/R2") to Commercial ("C") zone. The overall potential financial impact of the Bill, in its present form, cannot be determined at this time. Bill 353-31 (COR) is similar to Bill No. 310-31 (COR) for which fiscal note comments have already been submitted.

1 with a reasonable good-faith interpretation of section 401(a)(9) of the Code.

2 The following describes the statutory requirements of section 401(a)(9) of
3 the Code:

4 (i) The member's entire interest shall be distributed to the
5 member no later than the member's required beginning date, or the
6 member's entire interest must begin to be distributed to the member
7 no later than the member's required beginning date and must be paid
8 over the life of the member or the lives of the member and a
9 designated beneficiary (or over a period that does not extend beyond
10 the life expectancy of the member or the life expectancy of the
11 member and a designated beneficiary). The "required beginning date"
12 is April 1 of the calendar year following the later of (1) the calendar
13 year in which the member attains age 70½ or (2) the calendar year in
14 which the member retires.

15 (ii) If the distribution of the member's interest has begun in
16 accordance with paragraph (i) and the member dies before the
17 member's entire interest has been distributed, the remaining portion
18 must be distributed at least as rapidly as under the method of
19 distribution being used to satisfy paragraph (i).

20 (iii) If the member dies before distribution of the member's
21 interest has begun under paragraph (i), the member's entire interest

1 shall be distributed, or begin to be distributed, no later than as follows:

2 (A) If the member's surviving spouse is the member's
3 sole designated beneficiary, distributions to the surviving
4 spouse shall begin by December 31 of the calendar year
5 immediately following the calendar year in which the member
6 dies, or by December 31 of the calendar year in which the
7 member would have attained age 70½, if later;

8 (B) If the member's surviving spouse is not the
9 member's sole designated beneficiary, distributions to the
10 designated beneficiary shall begin by December 31 of the
11 calendar year immediately following the calendar year in which
12 the member died, and shall be paid over the life of such
13 designated beneficiary (or over a period not extending beyond
14 the life expectancy of such beneficiary); or

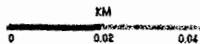
15 (C) If there is no designated beneficiary, the member's
16 entire interest shall be distributed by December 31 of the
17 calendar year containing the fifth anniversary of the member's
18 death.

19 (iv) All death benefits shall be administered to comply with
20 the incidental death benefit requirement in section 401(a)(9)(G) of the
21 Code.

Map Title



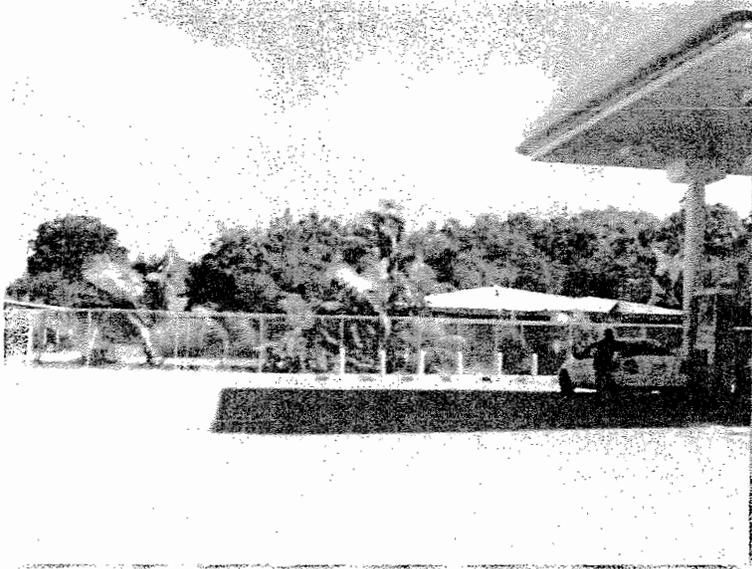
- PumpStation_Project (PUMPNAME)
- Plant_Project (PLANTNAME)
- Manhole_Project
- WWPS-06Aug7_Project (NAME)
- SewerLateral_Project
- SewerMain_Project (DIAMETER)
- ▭ MunicipalBoundary_Project (TAG)
- ~ geo_roads_adjusted93_Project (STREETI



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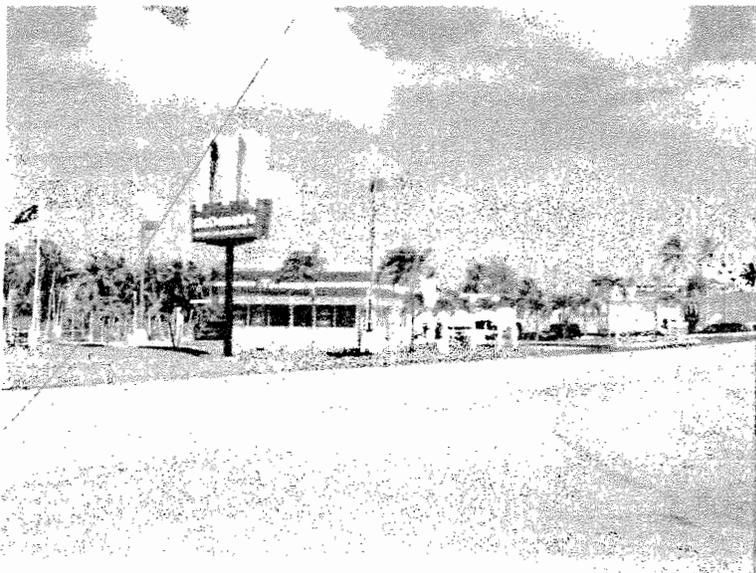
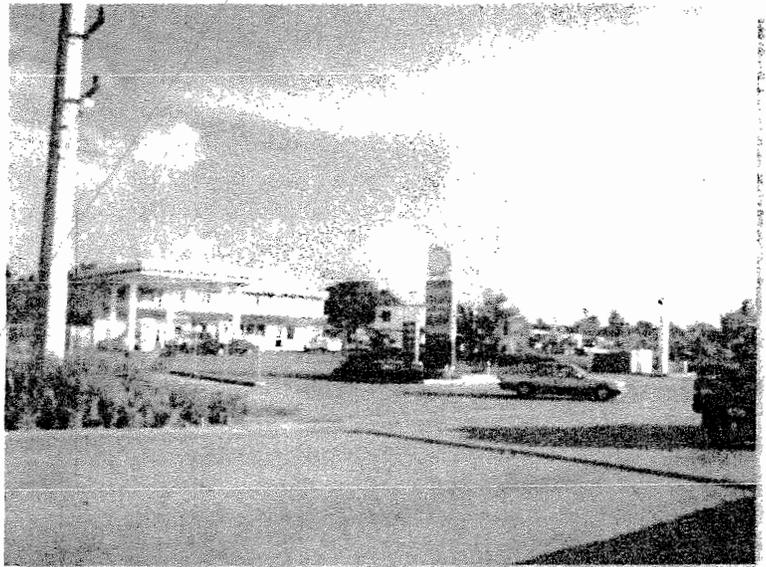
1 (5) In accordance with section 401(a)(16), benefits paid from, and
2 mandatory employee contributions made to, the Fund shall not exceed the
3 maximum benefits and the maximum annual additions, respectively,
4 permissible under section 415 of the Code with respect to governmental
5 plans.

6 (i) Specifically, the “annual benefit,” which is a benefit
7 payable in the form of a straight life annuity, may not exceed the
8 dollar limit described in section 415(b)(1)(A) of the Code, as
9 automatically adjusted for increases in the cost of living under section
10 415(d) of the Code. For benefits payable in the plan year ending
11 September 30, 2010, the dollar limit is \$195,000. The 12-month plan
12 year ending each September 30 shall be the “limitation year” for
13 purposes of applying the limitations under section 415 of the Code.
14 Section 415 of the Code and the Treasury Regulations thereunder
15 require that adjustments be made to the dollar limit for benefits that
16 commence prior to age 62 or after age 65 and for benefits payable to
17 members with less than ten years of membership. The Code and
18 Treasury Regulations require that any benefit payable in a form other
19 than a straight life annuity must be converted to an actuarially
20 equivalent straight life annuity in applying the applicable limit to the
21 “annual benefit”.



Property viewed from Shell

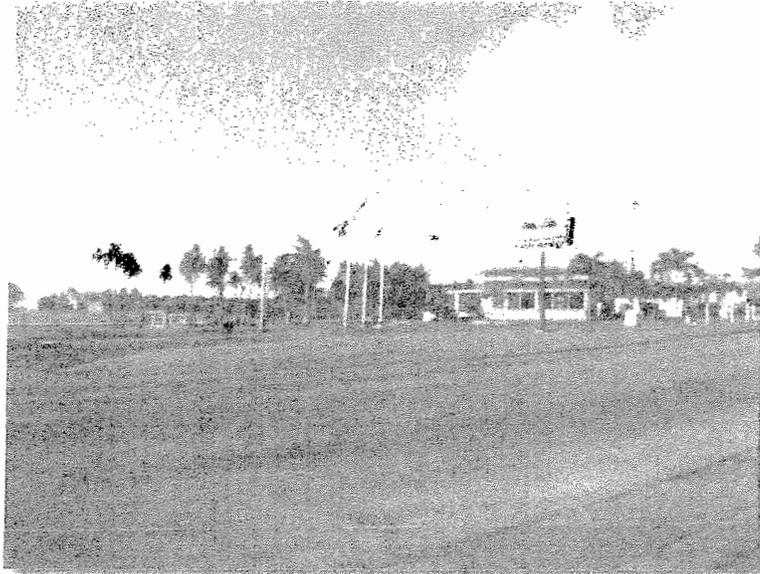
Shell



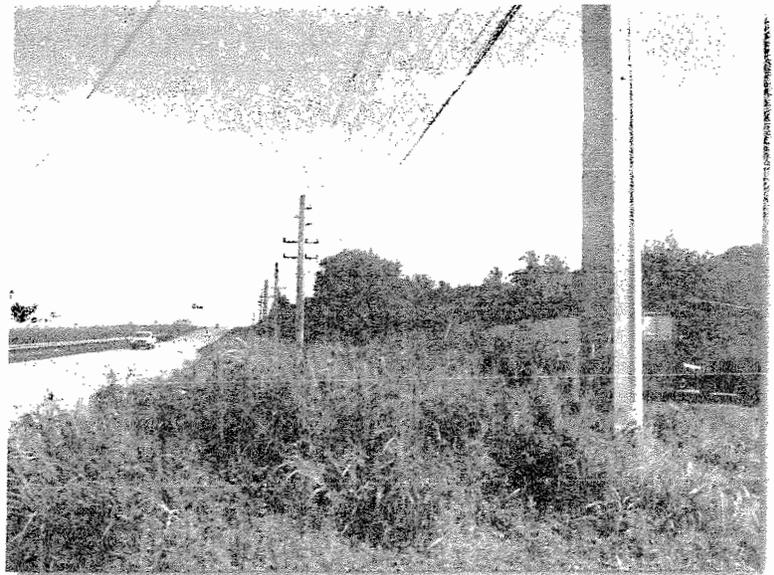
McDonald's and NCTAMS

1 (ii) The “annual benefit” does not include the portion of the
2 member’s benefit attributable to mandatory employee contributions
3 under section 8136. Rather, mandatory employee contributions are
4 treated as contributions to a defined contribution plan for purposes of
5 section 415 of the Code, and are therefore subject to the limits on
6 annual additions under section 415(c)(1) of the Code. The annual
7 additions may not exceed the lesser of the two limits. The first limit is
8 the dollar limit described in section 415(c)(1)(A) of the Code, as
9 automatically adjusted for increases in cost of living under section
10 415(d) of the Code. For the limitation year ending September 30,
11 2010, the dollar limit is \$49,000. The second limit is the
12 compensation limit described in section 415(c)(1)(B) of the Code
13 which provides that the annual additions may not exceed 100% of the
14 member’s “section 415 compensation” for the limitation year.

15 (iii) “Section 415 compensation” means the member’s Box 1,
16 W-2 earnings for the year, modified to include any pre-tax elective
17 deferrals pursuant to sections 403(b), 457(b), 125, or 132(f)(4) of the
18 Code. Generally, section 415 compensation does not include amounts
19 paid after severance from employment. However, section 415
20 compensation does include amounts paid by the later of 2½ months
21 after the member’s severance from employment or the end of the



Entrance to Nctams

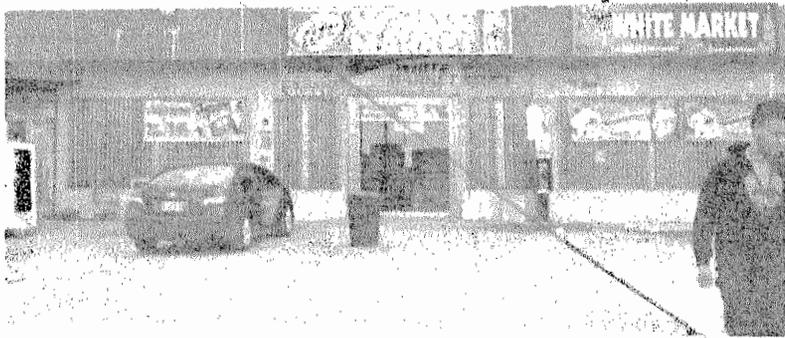


Route 3 and property



Rear of property on Mepa
St

1 limitation year that includes the date of the member's severance from
2 employment if the payment is regular compensation for services
3 during the member's regular working hours, or compensation for
4 services outside the member's regular working hours (such as
5 overtime or shift differential), commissions, bonuses, or similar
6 payments, and, absent the severance from employment, the payments
7 would have been paid to the member while the member continued in
8 employment with the Government. Section 415 compensation also
9 includes any payments to or for the benefit of a member who does not
10 currently perform services for the Government by reason of Qualified
11 Military Service, as defined in subsection (9) below, to the extent
12 those payments do not exceed the amounts the member would have
13 received if the member had continued to perform services for the
14 Government rather than entering Qualified Military Service. Section
15 415 compensation also includes "differential wage payments" within
16 the meaning of section 3401(h)(2) of the Code with respect to the
17 period during which the member is on active duty in Qualified
18 Military Service. Finally, section 415 compensation includes
19 payments awarded by an administrative agency or court or pursuant to
20 a bona fide agreement by the Government to compensate a member
21 for lost wages. Such payments for back pay are treated as section 415



1 compensation for the limitation year to which the back pay relates to
2 the extent the back pay represents wages and compensation that would
3 otherwise be included as section 415 compensation under this
4 subsection.

5 (6) In accordance with section 401(a)(17) of the Code, for purposes
6 of calculating contributions payable to the Fund and benefits payable from
7 the Fund, “salary,” “annual salary,” and “average annual salary” shall be
8 subject to the annual limit on compensation under section 401(a)(17) of the
9 Code, which limit is adjusted automatically for increases in the cost of living
10 under sections 401(a)(17)(B) and 415(d) of the Code. For the plan year
11 ending September 30, 2010, the limit is \$245,000.

12 (7) In accordance with section 401(a)(25) of the Code, in the case
13 that the amount of member's benefit payable by the Fund is to be determined
14 on the basis of actuarial assumptions, such assumptions shall be specified
15 under Fund documents.

16 (8) In accordance with section 401(a)(31) of the Code, a
17 “Distributee” who is entitled to a distribution may elect, at the time and in
18 the manner determined by the Board, to have any portion of an “Eligible
19 Rollover Distribution” that is equal to at least \$500 (or such other minimum
20 amount required under the Code or Treasury Regulations) paid directly in a
21 “Direct Rollover” to an “Eligible Retirement Plan”. For purposes of these

**DEDEDO MUNICIPAL PLANNING COUNCIL
MUNICIPALITY OF DEDEDO**

RESOLUTION NO. 2011-16

Introduced by:
Melissa B. Savares, Chairperson
Andrew Peter A. Benavente, Co-Chairperson

MEMBERS

Acda, Romy
Artero, Pascual
Chan, Jose Arthur Jr.
Cruz, Ricardo P.
Gines, Bernardo

Mafnas, Frank
San Nicolas, Joseph
San Nicolas, Laura
Tainatongo, Carmen
Wusstig, Ernie



Relative to the Dededo Municipal Planning Council's (DMPC) supports the rezoning of Lots 10060-REM-4-1-1; 10060 REM 3-R3; 10060 REM-3-1; 10060 REM-3-2; 10060 REM-3-3; 10060 REM-2-2NEW; 10060 REM2-1-R2; and 10060 REM-2-2-1-R1, from "R-1/2" Single/Multi-Family Dwelling to "C" Commercial located between Mepa Street and Route 3 in the Municipality of Dededo.

BE IT RESOLVED BY THE DEDEDO MUNICIPAL PLANNING COUNCIL OF DEDEDO:

WHEREAS, Bill Nos. 352-31 through 359-31, to rezone the above lots were introduced by Frank Blas Jr., Senator of the 31st Guam Legislature; and

WHEREAS, a public hearing was held at the Guam Legislature on November 29, 2011 at 1:00 p.m. and on December 13, 2011, at the Dededo Senior Citizen Center with the Dededo Municipal Planning Council meeting was held at the with nine members present; and

WHEREAS, family representatives of the above lots were present to share future proposals for the use of these commercial properties at both public hearings; and

WHEREAS, members of the DMPC request to restrict any, and all adult entertainment operations, such as bars serving alcoholic beverages and game rooms operating games of chance, from operating in these commercial zones; and

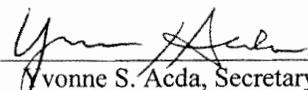
WHEREAS, documents from regulating agencies such as Guam Waterworks Authority, Guam Environmental Protection Agency, Department of Public Works and Guam Power Authority, indicating that there will be no harm to existing infrastructure, must be included before the approval of the approving body; and

BE IT RESOLVED that the Dededo Municipal Planning Council approves and supports the rezoning of Lot No. 10060-REM-4-1-1; 10060 REM 3-R3; 10060 REM-3-1; 10060 REM-3-2; 10060 REM-3-3; 10060 REM-2-2NEW; 10060 REM2-1-R2; and 10060 REM-2-2-1-R1, located in the Municipality of Dededo and Bill Nos. 352-31 through 359-31,; and therefore be it

FURTHER RESOLVED, that the Chairperson of the Dededo Municipal Planning Council certify to and the secretary attest the adoption hereof and that copies of the same be therefore transmitted to the Senators of the 31st Guam Legislature, Department of Land Management and to Members of the Guam Land Use Commission.

DULY RECORDED AND REGULARLY ADOPTED BY THE DEDEDO MUNICIPAL PLANNING COUNCIL ON THIS 13 DAY OF December 2011.


MELISSA B. SAVARES
MAYOR & CHAIRMAN


Yvonne S. Acda, Secretary DMPC

1 rules, the following definitions apply:

2 (i) "Eligible Rollover Distribution" means any distribution
3 of all or any portion of a member's vested benefit, except that an
4 Eligible Rollover Distribution shall not include:

5 (A) any distribution that is one of a series of
6 substantially equal periodic payments made no less frequently
7 than annually for the life (or life expectancy) of the Distributee
8 or the joint lives (or joint life expectancies) of the Distributee
9 and the Distributee's beneficiary, or for a specified period of
10 ten years or more;

11 (B) any distribution to the extent such distribution is
12 required under section 401(a)(9) of the Code; and

13 (C) the portion of any distribution that is not includible
14 in gross income.

15 Notwithstanding the foregoing, a distribution shall not fail to be an
16 Eligible Rollover Distribution merely because the distribution consists
17 of after-tax employee contributions that are not includible in gross
18 income. However, such portion may be transferred only to an
19 individual retirement account described in section 408(a) of the Code
20 or an individual retirement annuity described in section 408(b) of the
21 Code (other than an endowment contract), or to a qualified retirement

**Sentan Kumunidat Chalan Pago
(Chalan Pago Community Center)**

**TAREHA
(AGENDA)**

**gi alas 6:30 gi pipuengi
(6:30 pm)**

Bill No. 334-31 (COR): An Act to Rezone Lot No. 3261-R4 in the Municipality of Chalan Pago from Residential "R-1" to Light Industrial "M1" Zone.

Bill No. 335-31 (COR): An Act to Rezone Lot No. 3261-1-R3 in the Municipality of Chalan Pago from Residential "R-1" to Light Industrial "M1" Zone.

Yanggen un nisisita espesiât na setbision, put fabot âgang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hâlom gi i uepsait i Liheslaturan Guåhan gi www.guamlegislature.com. Yanggen para un na'hâlom testigu-mu, chule' para i ifisinin-mâmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kwatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi senbenp@guam.net. Este na nutisiu inapâsi nu i fendon gubetnamento.

If you require any special accommodations, please call the Office of Senator Vicente (ben) Cabrera Pangelinan at 473-4236/7. For copies of any of the Bills or Resolutions listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com. Testimonies may be submitted directly to our office at 324 West Soledad Avenue in Hagåtña or at the Mail Room of the Guam Legislature, via fax at 473-4238, or via email at senbenp@guam.net

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1 plan (defined contribution or defined benefit) described in section
2 401(a) of the Code or an annuity contract described in section 403(b)
3 of the Code, provided that the qualified trust or annuity contract
4 agrees to separately account for amounts so transferred (and the
5 earnings thereon), including separately accounting for the portion of
6 such distribution which is includible in gross income and the portion
7 which is not so includible.

8 (ii) "Eligible Retirement Plan" shall mean any of the
9 following accounts or plans to the extent it accepts the Distributee's
10 Eligible Rollover Distribution:

11 (A) A qualified retirement plan described in section
12 401(a) of the Code;

13 (B) An individual retirement account described in
14 section 408(a) of the Code;

15 (C) An individual retirement annuity described in
16 section 408(b) of the Code (other than an endowment contract);

17 (D) An annuity plan described in section 403(a) of the
18 Code;

19 (E) An annuity contract described in section 403(b) of
20 the Code, or

Bill No. 352-31 (COR): An Act to rezone Lot No. 10060REM-4-1-1, In the Municipality of Dededo from Single Family/Multi Dwelling (“R1/R2”) to Commercial (“C”) Zone.

Bill No. 353-31 (COR): An Act to rezone Lot No. 10060 REM 3-R3, In the Municipality of Dededo from Single Family/Multi Dwelling (“R1/R2”) to Commercial (“C”) Zone.

Bill No. 354-31 (COR): An Act to rezone Lot No. 10060-REM-3-1, In the Municipality of Dededo from Single Family/Multi Dwelling (“R1/R2”) to Commercial (“C”) Zone.

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Bill No. 371-31 (COR): An Act to rezone Lot No. 19A-3, in the Municipality of Sinajana from Single-Family Dwelling (R-1) to Multiple-Family Dwelling (R-2) Zone.

1 (F) An eligible deferred compensation plan described
2 in section 457(b) of the Code that is maintained by an eligible
3 governmental employer described in section 457(e)(1)(A) of the
4 Code and that agrees to separately account for amounts
5 transferred into such plan from this Plan.

6 (iii) A “Distributee” includes a member, the surviving spouse
7 of a deceased member, and the current or former spouse of a member
8 who is an alternate payee under a qualified domestic relations order
9 that has been approved by the Board.

10 (iv) A “Direct Rollover” is a direct payment by the Fund to
11 the Eligible Retirement Plan specified by the Distributee.

12 (v) A non-spouse beneficiary may elect a Direct Rollover to
13 an individual retirement account or individual retirement annuity
14 described in paragraph (ii)(B) or (C) established for the purpose of
15 receiving the distribution on behalf of the non-spouse beneficiary.

16 (vi) A Distributee may elect a Direct Rollover to a Roth IRA
17 as described in section 408A of the Code if the Distributee meets the
18 requirements that apply to rollovers from a traditional IRA to a Roth
19 IRA (i.e., for tax years prior to January 1, 2010, the Distributee’s
20 modified adjusted gross income cannot exceed \$100,000, and the
21 Distributee must not be married filing a separate return).



**I Mina'trentai Unu Na
Liheslaturan Guahan
THIRTY-FIRST GUAM LEGISLATURE**

**Senator Vicente "ben" Cabrera Pangelinan
Office of the People
Website: www.senbenp.com**

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

***gi Måttes, gi diha 29 gi Nubembre 2011
(Tuesday, November 29, 2011)***

***Kuåtton Inekungok Pupbleko gi I Liheslaturan Guahan
(Guam Legislature Public Hearing Room)***

**TAREHA
(AGENDA)**

***ala una gi despues di talo'ani
(1:00 PM)***

**Priniponi Siha
(Bills)**

Bill No. 205-31 (COR): An Act authorizing *I Maga'lahaen Guahan* to borrow up to \$2,000,000 for the purchase and installation of a new emergency 911 system.

Bill No. 280-31 (COR): An Act to appropriate the sum of Five Hundred Thousand Dollars (\$500,000.00) from the Enhanced 911 Emergency Reporting System Fund to the Guam Fire Department Capital Revolving Fund for the purpose of purchasing ambulances.

Bill No. 328-31 (COR): An Act to provide for the regulated conduct of special tasting and sampling events at approved locations, when conducted by a off-sale licensee, wholesale licensee or agent licensee for the sale of alcoholic beverages and distilled spirits by adding a New §3229 to Article 2 of §3215, Chapter 3, and by amending §3413 of Article 4 of Chapter 3, both of Title 11, Guam Code Annotated.

Bill No. 175-31 (COR): An Act to rezone Lot No. 5231-9-1, in the Municipality of Dededo from Agriculture "A" to Commercial "C".

1 (vii) In prescribing the manner of making elections with
2 respect to Eligible Rollover Distributions, as described above, the
3 Board may provide for the uniform application of any restrictions
4 permitted under applicable sections of the Code and Treasury
5 Regulations, including a requirement that a Distributee may not elect
6 to make a direct rollover from a single eligible rollover distribution to
7 more than one eligible retirement plan. The Board may require a
8 recipient plan to provide a written statement that it will accept the
9 rollover and separately account for the amount rolled over, where
10 appropriate.

11 (viii) Prior to making an Eligible Rollover Distribution, the
12 Board shall provide the Distributee a notice describing the
13 Distributee's right to make a Direct Rollover to an Eligible Retirement
14 Plan (the "402(f) Notice"). The Board shall issue the 402(f) Notice at
15 least 30 days but no more than 180 days prior to the date a distribution
16 is made. However, such Eligible Rollover Distribution may
17 commence less than 30 days after the notice is given provided that the
18 402(f) Notice clearly informs the Distributee that the Distributee has
19 the right to a period of at least 30 days after receiving the notice to
20 consider the decision of whether or not to elect a Direct Rollover, and

Opportunities

Individuals to entertain and
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Coordinator (Japan Market)

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22 Employment 22

Skills: Fuji Ichiban needs Waitstaff, Busboy & Cooks. Pick up applications at Fuji Ichiban 1. No phone calls

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Licensed Cosmetologist Needed Pls. call Angel @ 637-7763

Marketing Director 3yrs min. exp req. email resume w/sal req. to dededolawoffice@gmail.com

Outside & Counter Part Sales positions. Exp w commercial trucks or heavy equip parts; excel cust serv skills; good org skills; comp lit; traffic & court clear req send resume to jobs@morricequipment.com

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Friday, November 27, 2011

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\$1,199
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Special Game Card Prices
\$5.00 ea. or Blackout \$3.00 ea.
\$3.00 ea. Additional Packages \$5.00 ea.
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THIRTY-FIRST GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan
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gi Maites, gi ñña 29 gi Nobembre 2011
(Tuesday, November 29, 2011)

Kuaiton Inekungok Pupleko gi Liheslaturan Guahan
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Sentian Komunida! Chakan Pago
(Chakan Pago Community Center)

TAREHA
(AGENDA)

gi ñas 6:30 gi pñuengi
(6:30 pm)

Bill No. 334-31 (COR): An Act to Rezone Lot No. 3261-R4 in the Municipality of Chakan Pago from Residential "R-1" to Light Industrial "MI" Zone.

Bill No. 335-31 (COR): An Act to Rezone Lot No. 3261-1-R3 in the Municipality of Chakan Pago from Residential "R-1" to Light Industrial "MI" Zone.

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Nov 27, 2011

1 the Distributee, after receiving the notice, affirmatively elects a
2 distribution.

3 (9) In accordance with section 401(a)(37) of the Code, the
4 Uniformed Services Employment and Reemployment Rights Act of 1994
5 (“USERRA”), as amended, provides certain pension benefit rights to
6 employees who return to employment with their employer following a leave
7 of absence for "Qualified Military Service" as defined hereunder. Section
8 8137.2 also provides certain rights to employees who are on leave without
9 pay and on active duty with the Guam National Guard or the reserve
10 components of any of the Armed Services of the United States. Any
11 member who returns to employment with the Government following
12 Qualified Military Service shall be entitled to the greater of the rights the
13 member is entitled to under section 8137.2 or the reemployment pension
14 rights in section 414(u) of the Code. In the case of a member who dies while
15 performing Qualified Military Service, the survivors of the member are
16 entitled to any additional benefits (other than benefit accruals relating to the
17 period of Qualified Military Service) provided under the Fund had the
18 member resumed and then terminated employment on account of death.
19 This would include the death benefits provided under sections 8131 and
20 8134. For purposes of this section and applying the requirements of
21 USERRA, “Qualified Military Service” means such term as defined in

Family/Multi Dwelling ("R1/R2") to Commercial ("C") Zone.

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Sentan Kumunidat Chalan Pago
(Chalan Pago Community Center)

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(AGENDA)

gi alas 6:30 gi pipuengi
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Saina Ma'ase.

--
Lisa Cipollone
Chief of Staff
Office of Senator ben c pangelinan
(671) 473-4236
cipo@guamlegislature.org

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1 section 414(u)(5) of the Code (any service in the Armed Forces (Army, Air
2 Force, Navy, Marines, or Coast Guard), the Army National Guard and the
3 Air National Guard when engaged in active duty for training, inactive duty
4 training, or full-time National Guard duty, the commissioned corps of the
5 Public Health Service, and any other category of persons designated by the
6 President in time of war or national emergency).

7 **SECTION 3. Severability.** *If* any provision of this Act or its
8 application to any person or circumstance is held invalid, the invalidity *shall not*
9 affect other provisions or applications of this Act which can be given effect
10 without the invalid provision or application and to this end the provisions of this
11 Act is severable.

12



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Public Hearing - Second Notice



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Sun, Nov 27, 2011 at 11:21 AM (0 minutes ago)

Reply

ALICIA PEREZ

Alicia Perez

Alladi, Amritha

Betsy Brown

Erin Thompson

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date Sun, Nov 27, 2011 at 11:21 AM
subject Public Hearing - Second Notice
mailed-by guamlegislature.org

Hafa Adai, Senator Vicente (ben) Cabrera Pangelinan and the Committee on Appropriations, Taxation, Public Debt, Banking, Insurance, Retirement and Land will hold a public hearing on Tuesday, November 29 beginning at 1:00pm at the Guam Legislature Public Hearing Room and 6:30pm at the Chalan Pago Community Center. The agenda is as follows:

INEKUNGOK PUPBLEKO (PUBLIC HEARING)

gi Máttes, gi diha 29 gi Nubembre 2011 (Tuesday, November 29, 2011)

Kuátton Inekungok Pupbleko gi I Liheslaturan Guáhan (Guam Legislature Public Hearing Room)

TAREHA (AGENDA)

ala una gi despues di talo'áni (1:00 PM)

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Lisa Cipollone

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Senator ...
Stephani...



Mina'trentai Dos na Liheslaturan Guahan
32nd GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan

**COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT,
 PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND**

Tuesday, March 12, 2013

**Bill No. 47
 SIGN UP SHEET**

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
<i>Phil Tydingco</i>	<i>AGD</i>						
<i>Vince Camacho</i>	<i>GGRF</i>						
<i>Paula Blas</i>	<i>GGRF</i>						
<i>DR. T. San Agustin</i>	<i>GGRT</i>						



Mina'trentai Dos na Liheslaturan Guahan
32nd GUAM LEGISLATURE

Senator Vicente "ben" Cabrera Pangelinan

COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT,
PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND

Friday, March 15, 2013

Bill No. 47-32 (LS)
SIGN UP SHEET

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Joh Camacho	DET						
Reine Salar	ORT						
Phil Tydings	AG						
Tim McLaughlin	AG						



Mina'trentai Dos na Liheslaturan Guahan
32nd GUAM LEGISLATURE
Senator Vicente "ben" Cabrera Pangelinan

COMMITTEE ON APPROPRIATIONS, PUBLIC DEBT, LEGAL AFFAIRS, RETIREMENT,
PUBLIC PARKS, RECREATION, HISTORIC PRESERVATION AND LAND

Friday, March 15, 2013

Bill No. 47-32 (LS)
SIGN UP SHEET

NAME	ADDRESS	PHONE	EMAIL	WRITTEN	ORAL	SUPPORT	
						Yes	No
Pablo Blon	GGRF						
JR T. San Agustin	GGRF						
Vino Coacho	GGRF						

**GOVERNMENT OF GUAM RETIREMENT FUND
BOARD OF TRUSTEES' POSITION STATEMENT
IN SUPPORT OF BILL 47-32
SUBMITTED MARCH 12, 2013**

I. POSITION STATEMENT

The Government of Guam Retirement Fund Board of Trustees hereby submits its position statement in support of Bill 47-32.

II. PURPOSE OF BILL 47-32 AND KEY PROVISIONS

Bill 47-32 amends the Defined Benefit Plan statute by adding a new Section 8103.1 to comply with the requirements for tax-qualified governmental pension plans under section 401(a) of the United States Internal Revenue Code of 1986, as amended ("Code"), applicable to Guam under the mirror provisions of the Guam Territorial Income Tax Code. A section-by-section summary of the key provisions of Bill 47-32 are summarized below:

Section 1	Introductory language describes purpose of amendment is to comply with tax-qualification requirements under Internal Revenue Code.
Section 2(b)(1)	Compliance with Code Section 401(a)(2) which provides that Plan assets must be held in trust for exclusive benefit of members and beneficiaries.
Section 2(b)(2)	Compliance with Code Section 401(a)(7) which provides that benefits must be fully vested in the event of the termination of or complete discontinuance of contributions to Plan.
Section 2(b)(3)	Compliance with Code Section 401(a)(8) which prohibits using forfeitures to increase benefits any employee would otherwise receive under the Plan.
Section 2(b)(4)	Compliance with Code Section 401(a)(9) which requires that Plan distributions must begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70 1/2; or (2) the calendar year in which the employee retires.
Section 2(b)(5)	Compliance with Code Section 401(a)(16) which requires that the annual benefit payable by the Plan to a member may not exceed certain limits.
Section 2(b)(6)	Compliance with Code Section 401(a)(17) which imposes a limit (as indexed for inflation) (e.g., \$245,000 for 2010) on the annual compensation that may be taken in account under the Plan for the determination of Plan benefits.
Section 2(b)(7)	Compliance with Code Section 401(a)(25) which provides that any actuarial assumptions utilized to determine a members benefit be reflect in Plan documents.
Section 2(b)(8)	Compliance with Code Section 401(a)(31) which provides that the Plan must allow members to direct the direct rollover of payments that are eligible for rollover.

Section 2(b)(9)	Compliance with Code Section 401(a)(31) which provides that the survivors of members who die while performing Qualified Military Service must be entitled to any additional benefits provided under the Plan had the participant terminated employment on account of death.
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III. RELEVANT BACKGROUND RESULTING IN PROPOSED AMENDMENTS

By Resolution No. 2011-03 dated January 28, 2011, the Board of Trustees of the Government of Guam Retirement Fund found that the Defined Benefit Plan codified at Article 1, Chapter 8, Title 4 of the Guam Code Annotated needed to be amended to comply with the requirements for tax-qualified governmental pension plans under section 401(a) of the United States Internal Revenue Code of 1986, as amended, applicable to Guam under the corresponding mirror provisions of the Guam Territorial Income Tax Code.

Timely compliance by government plans required the submission of the proposed changes to the Director, Department of Revenue and Taxation, or before January 31, 2011. The proposed changes containing the necessary amendments to the Defined Benefit Plan are described in Bill 47-32, which adds a new section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund. The proposed changes included provisions taking into account the requirements of the Economic Growth and Tax Relief and Reconciliation Act of 2001 and other recent law changes (referred to as “EGTRRA”).

The required submission to satisfy EGTRRA was submitted to the Director, Department of Revenue and Taxation, on January 31, 2011. In its submission, the Board of Trustees of the Government of Guam Retirement Fund represented that after the draft bill (introduced as Bill 47-32) is enacted into law, then a copy of the Act will be forwarded to the Director, Department of Revenue and Taxation.

By letter dated March 29, 2011, the Director, Department of Revenue and Taxation issued its favorable determination that, based on the information supplied in the submittal, the proposed changes to the Defined Benefit Plan meet the requirements of Section 401(a) of the Guam Territorial Income Tax Laws.

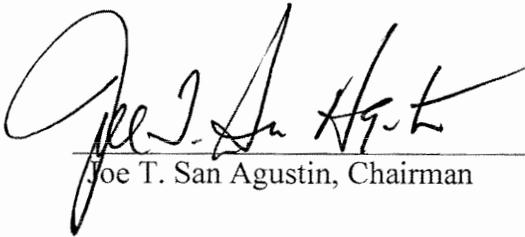
To timely comply with the representations in the submission to the Director, Department of Revenue and Taxation, the EGTRRA amendments in Bill 47-32 must be enacted into law on or before the “adoption” deadline which for the Government of Guam Retirement Fund is the last day of the “remedial amendment period” on April 3, 2013. This date is the 91st day after the last day of the first regular legislative session beginning more than 120 days after the date on which the final determination was issued.

IV. CONCLUSION

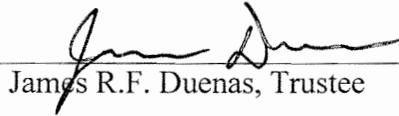
The Board of Trustees urges the timely enactment of Bill 47-32 to avoid a disqualification defect, which would expose the members of the Defined Benefit Plan and the Plan itself to significant adverse tax consequences, such as:

1. Employees participating in a disqualified pension plan will recognize income with respect to the funding attributable to their benefits accrued under the plan for open tax years to the extent they are vested.
2. Lump sum distributions from a disqualified plan cannot be rolled over to an eligible retirement plan.
3. When a pension plan is disqualified, the plan's trust loses its tax-exempt status and may be subject to income tax on trust earnings.

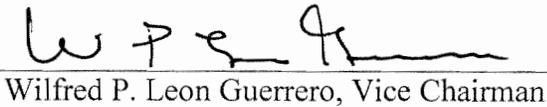
**RESPECTFULLY SUBMITTED BY THE BOARD OF TRUSTEES OF THE
GOVERNMENT OF GUAM RETIREMENT FUND**



Joe T. San Agustin, Chairman



James R.F. Duenas, Trustee

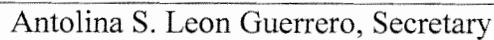


Wilfred P. Leon Guerrero, Vice Chairman

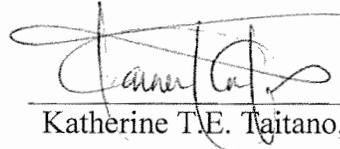


George A. Santos, Trustee

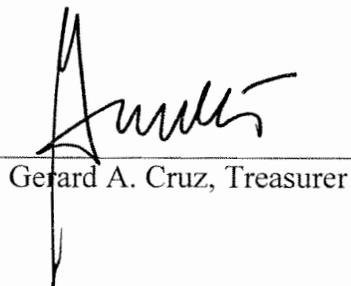
Off-Island 03.12.13



Antolina S. Leon Guerrero, Secretary



Katherine T.E. Taitano, Trustee



Gerard A. Cruz, Treasurer

Resolution No. 2011-03

RELATIVE TO APPROVING THE SUBMISSION OF THE GOVERNMENT OF GUAM DEFINED BENEFIT PLAN AMENDMENT TO THE DIRECTOR, GOVERNMENT OF GUAM DEPARTMENT OF REVENUE AND TAXATION

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE GOVERNMENT OF GUAM RETIREMENT FUND:

WHEREAS, the Board of Trustees of the Government of Guam Retirement Fund finds that the Defined Benefit Plan codified at Article 1, Chapter 8, Title 4 of the Guam Code Annotated must be amended to comply with the requirements for tax-qualified governmental pension plans under section 401(a) of the United States Internal Revenue Code of 1986, as amended, applicable to Guam under the corresponding mirror provisions of the Guam Territorial Income Tax Code;

WHEREAS, necessary amendments to the Defined Benefit Plan are contained in a proposed draft Bill for an Act to add a new section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund;

WHEREAS, timely compliance by government plans requires submission of the proposed changes to the Director, Department of Revenue and Taxation, or before January 31, 2011; and

NOW THEREFORE, BE IT RESOLVED:

That it is in the best interest of the Government of Guam Retirement Fund:

To amend the Defined Benefit Plan to comply with the Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund by approving and submitting the enclosed draft Bill to the Legislature for introduction and passage;

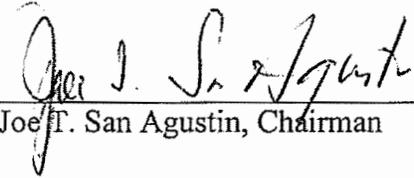
To submit necessary documents amending the Defined Benefit Plan to the Director, Department of Revenue and Taxation on or before January 31, 2011; and

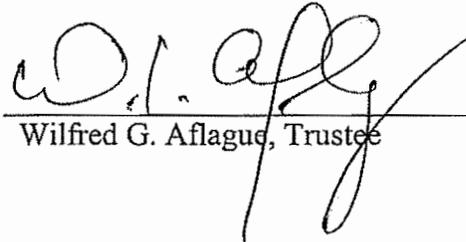
To submit further documents as necessary to comply with the Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund.

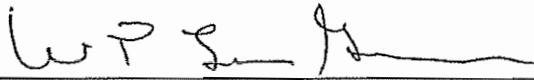
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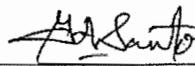
DULY AND REGULARLY ADOPTED BY THE BOARD OF TRUSTEES
OF THE GOVERNMENT OF GUAM RETIREMENT FUND, ON THIS 28th DAY OF
JANUARY, TWO THOUSAND AND ELEVEN.

BOARD OF TRUSTEES OF THE
GOVERNMENT OF GUAM RETIREMENT FUND

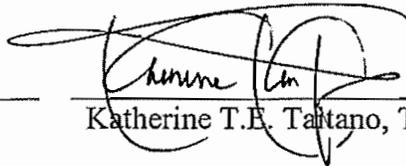

Joe T. San Agustin, Chairman

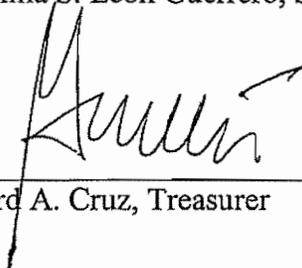

Wilfred G. Aflague, Trustee


Wilfred P. Leon Guerrero, Vice Chairman


George A. Santos, Trustee


Antolina S. Leon Guerrero, Secretary


Katherine T.E. Taitano, Trustee


Gerard A. Cruz, Treasurer



Dipåtamenton Kontribusion yan Adu'ána

DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDDIE BAZA CALVO, Governor / *Mega'låhi*
RAY TENORIO, Lt. Governor / *Tifente Gubetnadot*

JOHN P. CAMACHO, Director
Direktot
MARIE M. BENITO, Deputy Director
Segundo Direktot

March 29, 2011

Government of Guam
424 Route 8
Maite, GU 96910

Re: Government of Guam Retirement Fund
Defined Benefit Plan
EIN/PN: 96-0002106 / 001

Dear Sir/Madam:

We have made a favorable determination on the above-named plan submitted on January 31, 2011 based on the information supplied. It meets the requirements of Sec. 401(a) of the Guam Territorial Income Tax Laws.

Please keep this letter along with all related information and documentation regarding this plan in your permanent records. You must retain this information to preserve your reliance on this letter.

We have sent a copy of this letter to your representative as indicated in the power of attorney. If you have any questions concerning this matter, please contact Jennifer Untalan at (671) 635-7699 ext 801.

Sincerely Yours,


JOHN P. CAMACHO
Director

Government of Guam Defined Benefit Retirement Fund-- Summary of Changes under EGTRRA Plan Amendment

(Carlsmith Review as of October 20, 2010)

Plan Amendment Document (Proposed Bill)--Section	Description of Change	Comments
	<p>The Government of Guam Retirement Fund is provided for under the statutory provisions of GCA Article 1, Chapter 8, which constitutes the Plan document. There is no separate Plan document apart from the statute, although Plan administrative policies, rules, regulations may constitute part of the Plan document.</p> <p>In order to comply with the "EGTRRA" changes in law and maintain its tax-qualified status under Section 401(a) of the Internal Revenue Code of 1986, as amended (and corresponding mirror provisions under the Guam Territorial Income Tax Code), the Plan must be amended to reflect the changes in law. Unless otherwise provided, the Guam Department of Revenue and Taxation generally adheres to the IRS regulatory and administrative procedures relating to tax compliance. In this regard, the IRS generally requires that governmental qualified retirement plans be amended and submitted to the IRS for favorable determination letter by January 31, 2011. Also, the IRS rules generally provide that, if the Plan amendment is submitted in proposed form by January 31, 2011, the approval of the amendment may be adopted no later than 90 days following the date of the favorable determination letter. However, there is no requirement for a Plan to be submitted for a favorable determination letter, although it is best practice to do so in order to gain reliance value on the determination by the tax authority (although there may be a difference in risk in comparing the IRS and the Guam Department of Revenue and Taxation). In this regard, the current Plan has not been previously submitted to the Guam Department of Revenue and Taxation for a favorable determination letter. In the past, it is typical that, where a statute serves at the document for the governmental plan, the plan has not been submitted to the IRS and the tax-qualified status of the plan has not been questioned by the IRS. However, more recently, the IRS has audited and encouraged the submission of governmental plans.</p> <p>Because the Plan document is reflected in statute, the proposed amendment is embodied in a proposed bill for the amendment of GCA Article 1, Chapter 8. However, as an alternative, the proposed amendment may be implemented by adoption as administrative policies, rules, or regulations by the Board of Trustees.</p> <p>The proposed amendment of the Plan should be reviewed and enacted and submitted to the Guam Department of Revenue and Taxation by January 31, 2011. Below is a review of the changes made under the proposed amendment of the Plan.</p>	
Section 1	Introductory language describes purpose of amendment is to comply with tax-qualification requirements under Internal Revenue Code.	
Section 2(b)(1)	Compliance with Code Section 401(a)(2) which provides that Plan assets must be held in trust for exclusive benefit of members and beneficiaries.	
Section 2(b)(2)	Compliance with Code Section 401(a)(7) which provides that benefits must be fully vested in the event of the termination of or complete discontinuance of contributions to Plan.	Although a tax-qualification requirement or limitation may not have practical application to the Plan (e.g., all benefits under a plan may fully vested at the outset), the tax rules still require that the requirement or limitation be set forth in the plan.

Plan Amendment Document (Proposed Bill)--Section	Description of Change	Comments
Section 2(b)(3)	Compliance with Code Section 401(a)(8) which prohibits using forfeitures to increase benefits any employee would otherwise receive under the Plan.	
Section 2(b)(4)	Compliance with Code Section 401(a)(9) which requires that Plan distributions must begin by April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70 1/2; or (2) the calendar year in which the employee retires.	
Section 2(b)(5)	Compliance with Code Section 401(a)(16) which requires that the annual benefit payable by the Plan to a member may not exceed certain limits.	
Section 2(b)(6)	Compliance with Code Section 401(a)(17) which imposes a limit (as indexed for inflation) (e.g., \$245,000 for 2010) on the annual compensation that may be taken in account under the Plan for the determination of Plan benefits.	Again, although few members in a governmental plan receive compensation that exceeds this limit, the tax rules require that the plan document include this limit.
Section 2(b)(7)	Compliance with Code Section 401(a)(25) which provides that any actuarial assumptions utilized to determine a members benefit be reflect in Plan documents.	
Section 2(b)(8)	Compliance with Code Section 401(a)(31) which provides that the Plan must allow members to direct the direct rollover of payments that are eligible for rollover.	
Section 2(b)(9)	Compliance with Code Section 401(a)(31) which provides that the survivors of members who die while performing Qualified Military Service must be entitled to any additional benefits provided under the Plan had the participant terminated employment on account of death.	

CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

P.O. Box 656 Honolulu, Hawaii 96809-0656 Tel: 808.523.2500 Fax: 808.523.0842

Memorandum To: Paula M. Blas **Reference No.:** 039415-25

From: Joanne L. Grimes

Date: February 7, 2013

Subject: April 3, 2013 Deadline to Enact Legislation to Maintain Qualified Status of the Defined Benefit Plan

This memo serves to remind you of an upcoming **April 3, 2013** deadline by which the Defined Benefit Plan under the Government of Guam Retirement Fund ("Defined Benefit Plan") must be statutorily amended. The Defined Benefit Plan was submitted to the Department of Revenue and Taxation ("DRT") on January 31, 2011. The submission requested a determination that the Plan is tax-qualified, taking into account requirements of the Economic Growth and Tax Relief and Reconciliation Act of 2001 and other recent law changes (referred to as "EGTRRA"). The governing plan document submitted for review by DRT consisted of current law in Article 1, Chapter 8, Title 4 of the Guam Code Annotated plus a proposed Bill to add a new Section 8103.1 to Title 4 ("Bill") to satisfy the EGTRRA requirements. Also included was a representation that when the proposed Bill is enacted into law, a copy of the Act will be provided to supplement the submission.

Based on these documents and representations, DRT issued a favorable determination letter for the Defined Benefit Plan on March 29, 2011. To comply with the representations in the submission, the proposed Bill containing the EGTRRA requirements must now be timely enacted into law.

A. **The adoption (enactment) deadline for the proposed Bill is April 3, 2013.** All qualified pension plans must be amended for EGTRRA by the last day of the remedial amendment period ("RAP") for the plan or risk disqualification. The last day of the EGTRRA RAP for the Defined Benefit Plan is April 3, 2013.

1. **Remedial amendment period.** The RAP varies depending on type of plan and the status and certain other characteristics of the plan sponsor. In the case of a government sponsored individually designed plan, the EGTRRA RAP normally ends on January 31, 2011.

2. **Extension if application for determination is filed by end of RAP.** If a request is made to DRT by the end of the RAP for a determination as to the qualification of a government plan, the right to make corrective amendments is extended until the expiration of the 91st day after the last day of the of the first regular legislative session beginning more than 120 days after the date the final determination is issued. Based on the timely submission of the Defined Benefit Plan to DRT, the March 29, 2011, date of the DRT determination letter, and the

January 4, 2012, to January 2, 2013, dates for the next regular legislative session, the end of the EGTRRA RAP is extended until April 3, 2013.

3. The law does not provide for any further extensions of the RAP.

B. Failure to timely adopt the Bill to amend for EGTRRA is a disqualification defect. Disqualification would expose the employees and the plan to significant adverse tax consequences.

1. Employees participating in a disqualified pension plan will recognize income with respect to the funding attributable to their benefits accrued under the plan for open tax years to the extent they are vested.

2. Lump sum distributions from a disqualified plan cannot be rolled over to an eligible retirement plan.

3. When a pension plan is disqualified, the plan's trust loses its tax-exempt status and may be subject to income tax on trust earnings.



Dipáttamenton Kontribusion yan Adu'ána

DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDWARD B. CALVO, Governor Maga'láhi
RAY TENORIO, Lt. Governor Tifente GubetnadoraJOHN P. CAMACHO, Acting Director
Actot Direktot
MARIE M. BENITO, Deputy Director
Sigundo Direktot

March 20, 2013

Honorable Senator Vicente Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs,
Retirement, Public Parks, Recreation, Historic Preservation, and Land
32nd Guam Legislature
324 West Soledad Avenue
Suite 101, Hagatna, GU 96910

Re: Testimony for **Bill No. 47-32 (LS)**
Introduced by Senator Vicente C. Pangelinan

**AN ACT TO ADD NEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF
THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE
REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT
FUND.**

Buenas yan Hafa Adai to Senators Vicente C. Pangelinan and Members of the Committee on
Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation,
and Land.

My name is John P. Camacho and I currently serve as the Director for the Department of Revenue and
Taxation for the Government of Guam.

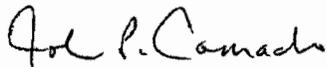
I have reviewed **Bill No. 47-32 (LS)**, which intends to change the government of Guam's defined
benefit retirement plan ("DB Plan") to meet the requirements specified under Section 401(a) of the
Guam Territorial Income Tax Law ("GTIT"), as mirrored by the Internal Revenue Code. It appears that
the DB Plan meets the qualifications of GTIT §401(a).

I, and members of my staff, met with representatives from the Government of Guam Retirement Fund
("GGRF") to discuss the potential effects of **Bill No. 47-32 (LS)**. GGRF assured us that there will be no
detrimental effects as a result of the passage of **Bill No. 47-32 (LS)**. Moreover, during the March 15th
legislative hearing, GGRF had assured the Legislature that **Bill No. 47-32 (LS)** seeks solely to protect
the retirement fund and its members, and that it will not alter the DB plan as it currently exists.

However, it should be noted that there may be potential impact with regard to any proposed extension of the unfunded liability amortization period as the Actuary. In addition, a potential fiscal impact on the General Fund may occur due to the tax advantage of meeting the GTIT §401(a) requirements. Should **Bill No. 47-32 (LS)** pass, future contributions made by an active employee to the DB plan is generally not taxed until such time the employee retires, separates from service, or otherwise withdraws from the plan. Consequently, the government of Guam should expect erosion of approximately \$2.5 million in general fund revenue.

Thank you for this opportunity to provide comments on **Bill No. 47-32 (LS)**.

Sincerely,


JOHN P. CAMACHO
Director



Dipattamenton Kontribusion yan Adu'ána

DEPARTMENT OF

REVENUE AND TAXATION

GOVERNMENT OF GUAM

Gubetnamenton Guåhan

EDWARD B. CALVO, Governor *Maga'åhå*
RAY TENORIO, Lt. Governor *Tiånte Gubetnadora*

JOHN P. CAMACHO, Acting Director
Actot Direktot
MARIE M. BENITO, Deputy Director
Sigundo Direktot

March 22, 2013

Honorable Senator Vicente Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs,
Retirement, Public Parks, Recreation, Historic Preservation, and Land
32nd Guam Legislature
324 West Soledad Avenue
Suite 101, Hagatna, GU 96910

Re: Revised Testimony for **Bill No. 47-32 (LS)**
Introduced by Senator Vicente C. Pangelinan

**AN ACT TO ADD NEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF
THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE
REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT
FUND.**

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Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation,
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My name is John P. Camacho and I currently serve as the Director for the Department of Revenue and
Taxation for the Government of Guam.

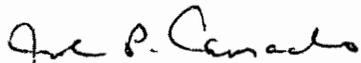
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detrimental effects as a result of the passage of **Bill No. 47-32 (LS)**. Moreover, during the March 15th
legislative hearing, GGRF had assured the Legislature that **Bill No. 47-32 (LS)** seeks solely to protect
the retirement fund and its members, and that it will not alter the DB plan as it currently exists.

However, it should be noted that Section 401(a) requires conformity to strict actuarial guidelines in order to provide adequate funding to sustain the plan. There may be potential impact should the government of Guam propose any extension of the amortization period, or make any changes to the plan.

Thank you for this opportunity to provide comments on **Bill No. 47-32 (LS)**.

Sincerely,

A handwritten signature in black ink, appearing to read "John P. Camacho". The signature is fluid and cursive.

JOHN P. CAMACHO

Director



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

E-mail: roryfonguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator

Rory J. Respicio

CHAIRPERSON

MAJORITY LEADER

Senator

Thomas C. Ada

VICE CHAIRPERSON

ASSISTANT MAJORITY LEADER

Senator

Vicente (Ben) C. Pangelinan

Member

Speaker

Judith T.P. Won Pat, Ed.D.

Member

Senator

Dennis G. Rodriguez, Jr.

Member

Vice-Speaker

Benjamin J.F. Cruz

Member

Legislative Secretary

Tina Rose Muña Barnes

Member

Senator

Frank Blas Aguon, Jr.

Member

Senator

Michael F.Q. San Nicolas

Member

Senator

V. Anthony Ada

Member

MINORITY LEADER

Senator

Aline Yamashita

Member

February 19, 2013

VIA FACSIMILE

(671) 472-2825

John A. Rios

Director

Bureau of Budget & Management Research

P.O. Box 2950

Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. 43-32 through 44-32 (COR) and Bill Nos. 45-32 through 47-32 (LS)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bill. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio

Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
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Senator
V. Anthony Ada
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MINORITY LEADER

Senator
Aline Yamashita
Member

Certification of

Waiver of

Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **BILL NO. 47-32 (LS) – “AN ACT TO ADD A NBEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND..”** –on February 13, 2013. COR hereby certifies that BBMR confirmed receipt of this request on February 20, 2013 at 10:04 AM.

COR further certifies that a response to this request was not received. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 47-32 (LS) to be included in the committee report on said bill, is hereby waived.**

Certified by:

Senator Rory J. Respicio
Chairperson, Committee on Rules

March 25, 2013

Date



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

March 18, 2013

COPY

Chairman
 Committee on Appropriations,
 Public Debt, Legal Affairs,
 Retirement, Public Parks,
 Recreation, Historic Preservation
 and Land

Mr. John Rios
 Director
 Bureau of Budget and Management Resource
 Ricardo J. Bordallo Complex
 Hagatna, Guam

Re: Fiscal Note

Hafa Adai Mr. Rios,

Member
 Committee on Education,
 Public Libraries
 and Women's Affairs

This letter is to request fiscal notes for the following bills:

Bill No. 29- 32 (COR): An Act to add §60114.1 and §60114.2 to Chapter 60 of 21 Guam Code Annotated relative to Competitive Equalization Act on the leasing of Government of Guam property.

Member
 Committee on General
 Government Operations and
 Cultural Affairs

Bill No. 35-32 (COR): An Act to add §§61314, 61315, 61316, 61317, 61318, 61319, and 61320 to Chapter 61 Article 3 of 21 Guam Code Annotated relative to enforcement of zoning laws.

Member
 Committee on Municipal
 Affairs, Tourism, Housing and
 Hagåtña Restoration and
 Development Authority

Bill No 47-32 (LS): An Act to add a new Section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund.

Member
 Committee on Health &
 Human Services, Health
 Insurance Reform, Economic
 Development and Senior
 Citizens

Bill No. 67-32 (COR): An Act to Amend Section 2(a) and Section 3(b) and to add a new Section 4 of Public Law 24-33 relative to amending the license agreement between the Guam Football Association (Soccer) Association and the Government of Guam.

Your assistance in this matter is appreciated.

Member
 Committee on Aviation, Ground
 Transportation, Regulatory
 Concerns and Future
 Generations

Si Yu'os Ma'ase,

Vicente (ben) Cabrera Pangelinan
 Senator

lgd



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

February 19, 2013

MEMORANDUM

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Referral of Bill No. 47-32(LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. 47-32(LS).

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

disregards the cost of operation or of doing business. A 20% charge in any business is costly and will jeopardize the business operations of that organization assessed. How is this justified? The government takes zero risks and wants a 20 percent return. What if the business losses money? Does the government really care, or is the sole purpose is to make money regardless of the outcome? This is wrong, excessive and without reasonable grounds.

3. Section 5.

This Section states that the money will be given to the Mayors Council, Parks and Recreation and the Department of Education. I object on the following grounds:

a. Basically, government is inefficient and mismanaged. Government gives a lot of "lip-service" about being trying to be efficient, but in real life, it fails to be economical, practical, efficient and well managed. Here the government is taking money from businesses which must operate as efficiently and effectively as possible in order to survive, and the government in turn continues to operate inefficiently. The power to tax is great because all you do is take from the people, and spend it without truly being efficient and well managed. The government basically takes the money from hard working and basically efficient businesses, and gives it to inefficient government agencies. The Mayor's Council, Department of Parks and Recreation and Department of Education are inefficient and mismanaged. We frequently see in the news, reports and articles about mis-spending or mis-management by Parks and Recreation and the DOE. Such articles and reports are only the ones that are known or discovered - - just think about the incidents that we don't know about! Why should we take good money and waste it on inefficient agencies? We are just giving them more money to waste. There is not enough accountability.

b. There is no establish amount as to how the money shall be spread between the Mayor's Council, Department of Parks and Recreation and Department of Education. Will it be spread: 1/3 - 1/3 - 1/3? Or 25% - 10% - 65%? Or 5% - 50% - 45%? etc.

4. Finally, I object to Bill 19-32 on the grounds that it hurts the GNOC. The GNOC is an essential and a necessary organization on Guam. Every jurisdiction or country in the world that desires to participate in the Olympics and world class sporting events must have a sports organization that overseas, protects and helps sports in that country. Basically, all sports that desire to have an opportunity to participate in the Olympics and world class sports must a) belong and be part of a sporting organization or federation for the particular sport, b) that federation must belong to a national sports organization for all sports, then finally, c) such national sports organization must be a member of the World sports organization. For example: i) Swimmers must be a member of a swim

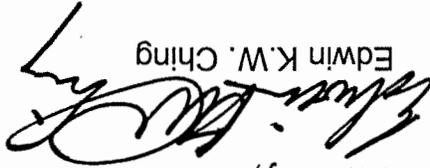
I Mina Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
47-32 (L5)	V.C. Pangelinan	AN ACT TO ADD A NEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND	2/19/13 11:17am	2/19/13	Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation and Land			

club, ii) which must be a member of its national swim federation, iii) which must belong to the national overall sports federation (here it's the GNOC), which finally, iv) must belong to the World Olympic organization. Or: swim club → national swim organization → national sports organization (GNOC) → World Olympic organization.

Basically, the system is a little complicated and costly to operate, but it works. Locally, the GNOC has successfully operated for over 24 years without government support. It has helped many athletes and sports organizations by funding clinics, training at off-island locations such as in Australia, London, and the U.S. They have paid for off-island special coaches, officials and many other expenses to the benefit of various sports. They have raised funds for the seven (7) Olympics without government funding. Each Guam Olympic required thousands and thousands of dollars to send a Guam team.

Taking 20% will have a substantial negative and chilling effect on all sports on Guam. The government has not been a strong supporter of sports on Guam. You hurt the GNOC, you hurt sports on Guam. I strongly recommend against the passage of Bill 19-32 in any form whatsoever.

Sincerely,

Edwin K.W. Ching



I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

March 5, 2013

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan

Re: Public Hearing – FIRST NOTICE

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00am** and Oversight Hearing beginning at **2:00pm** on **Tuesday, March 12, 2013** at the Guam Legislature's Public Hearing Room.

The following is the agenda:

Komfitmasion Siha:
(Confirmation Hearing)

Mr. Pelagio S. Sardoma, Member for the Board of Equalization
Mr. Victor F. Cruz, Member for the Guam Land Use Commission

Priniponi Siha
(Bills)

Bill No. 5-32 (LS): An Act to add a new §40128 Chapter 40 of 5GCA Relative to placing the former FQ Sanchez Elementary School Facility under the jurisdiction of the Umatac Mayor's Office

Bill No. 17-32 (COR): An Act to allow for conditional use of property situated in the Municipality of Dededo for meetings and cultural purposes, specifically Lots 15-3 and 15-R3, both of Tract 1413, which are currently zoned "A" (Agricultural), containing an area of 4,208.7+ square meters, and bordered by Alageta Road.

Bill No. 29-32 (COR) An Act to add §60114.1 and §60114.2 to Chapter 60 of 21 Guam Code Annotated relative to Competitive Equalization Act on the leasing of Government of Guam property.

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324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Memo to All Senators
March 5, 2013
Page 2

Bill No. 54-32 (COR): An Act to Amend §511005 and §511006 and to add §511007 and §511008 to Chapter 51 Article 10 of 10 Guam Code Annotated and to add §5120 to Chapter 5 Part B of 5 Guam Code Annotated relative to the Fund Management of the Host Community Benefits.

**HINEKUNGO' INILAO
(OVERSIGHT HEARING)**

UPDATE ON HOTEL OCCUPANCY TAX (HOT) BOND PROJECTS

Yanggen un nisisita espesiât na setbision put fabot âgang i Ifisinin Senadot ben pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hâlom gi i uepsait i Lihelaturan Guåhan gi www.guamlegislature.com Yanggen para un na'hâlom testigu-mu, chule' para i ifisinin-mâmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kwatton Katta gi i Lihelatura, pat faks gi 473-4238, patsino imel gi senbenp@guam.net. Este na nutisiu inapâsi nu i fendon gubetnamento.

If you require any special accommodations, auxiliary aids or other special services or for further information, please call the Office of Senator Vicente (ben) Cabrera Pangelinan at 473-4236/7. For copies of any of the Bills listed on this agenda, you may log on to the Guam Legislature's website at www.guamlegislature.com Testimonies may be submitted directly to our office at 324 West Soledad Avenue in Hagåtña or at the Mail Room of the Guam Legislature, via fax at 473-4238, or via email at senbenp@guam.net



Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

Lisa Dames <cipo@guamlegislature.org>
To: phnotice@guamlegislature.org

Tue, Mar 5, 2013 at 4:35 PM

Senator Vicente "ben" Cabrera Pangelinan

Office of the People

Website: www.senbenp.com

INEKUNGOK PUPBLEKO
(PUBLIC HEARING)

gi Måttes, gi diha 12 gi Måtso, 2013)

Tuesday, March 12, 2013

Kuåtton Inekungok Pupbleko gi I Liheslaturan Guáhan
(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an
(9:00 AM)

TAREHA
(AGENDA)

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(Confirmation Hearing)

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HINEKUNGO' INILAO

(OVERSIGHT HEARING)

Kuátton Inekungok Pupleko gi I Liheslaturan Guáhan

(Guam Legislature Public Hearing Room)

alas dos gi despues di talo áni

(2:00 PM)

UPDATE ON HOTEL OCCUPANCY TAX (HOT) BOND PROJECTS

Yanggen un nisisita spesiát na setbision, put fabot ágang i Ifisinin Senadot ben pangelinan gi 473- Yanggen un nisisita spesiát na setbision, put fabot ágang i Ifisinin Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hálom gi i uepsait i Liheslaturan Guáhan gi www.guamlegislature.com Yanggen para un na'hálom testigu-mu, chule' para i ifisinin-mámi gi 324 West Soledad Avenue gi iya Hagátña, pat guatto gi i Kuatton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi senbenp@guam.net. Este na nutisiu inapási nu i fendon gubetnamento.

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--

Lisa Dames
Chief of Staff
I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
Parks, Recreation, Historic Preservation, and Land.
(671) 473-4236 (office)
(671) 473-4238 (fax)
senbenp.com
www.guamlegislature.org

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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - FIRST NOTICE

Lisa Dames <cipo@guamlegislature.org>

Tue, Mar 5, 2013 at 4:40 PM

To: news@guampdn.com, news@k57.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, Ken Quintanilla <kenq@kuam.com>, Krystal Paco <krystal@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, joy@mvguam.com, Jon Anderson <editor@mvguam.com>, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com
Bcc: "Vicente C. Pangelinan" <ctzenben@guam.net>, Chris Budasi <chris.budasi@gmail.com>

Senator Vicente "ben" Cabrera Pangelinan

Office of the People

Website: www.senbenp.com

INEKUNGOK PUPBLEKO

(PUBLIC HEARING)

gi Máttes, gi diha 12 gi Mátso, 2013)

Tuesday, March 12, 2013

Kuátton Inekungok Pupbleko gi I Liheslaturan Guáhan

(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an

(9:00 AM)

TAREHA

(AGENDA)

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(Confirmation Hearing)

Mr. Pelagio S. Sardoma, Member for the Board of Equalization

Mr. Victor F. Cruz, Member for the Guam Land Use Commission

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HINEKUNGO' INILAO

(OVERSIGHT HEARING)

Kuátton Inekungok Pupleko gi I Liheslaturan Guáhan

(Guam Legislature Public Hearing Room)

alas dos gi despues di talo ani

(2:00 PM)

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--
Lisa Dames
Chief of Staff
I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
Parks, Recreation, Historic Preservation, and Land.
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TUESDAY, MARCH 5, 2013 - MARIANAS VARIETY GUAM EDITION



I Mina'Rentai Dos na Liheslaturan Guahan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriation, Public Debt, Legal Affairs, Retirement
Public Parks, Recreation, Historic Preservation, and Land

INEKUNGOK PUPBLEKO - (PUBLIC HEARING)

gi Måttes, gi ðiba 12 gi Måtse, 2013 - Tuesday, March 12, 2013

Kuårtion Inekungok Pubbleko gi I Liheslaturan Guahan - (Guam Legislature Public Hearing Room)

alas noebi gi eggan'an - (9:00 AM)

TAREHA - (AGENDA)

Konfirmasion Siha: - (Confirmation Hearing)

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Mr. Victor F. Cruz, Member for the Guam Land Use Commission

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HINEKUNGO' INILAO - (OVERSIGHT HEARING)

Kuårtion Inekungok Pubbleko gi I Liheslaturan Guahan - (Guam Legislature Public Hearing Room)

alas dos gi despues di tako ñni - (2:00 PM)

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This ad paid with government funds.



I Mina'trentai Dos na Liheslaturan Guåchan
32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

*gi Måttes, gi diha 12 gi Måtso, 2013
(Tuesday, March 12, 2013)*

*Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)*

*alas nuebi gi eggan'an
(9:00 AM)*

**TAREHA
(AGENDA)**

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(Confirmation Hearing)**

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Mr. Victor F. Cruz, Member for the Guam Land Use Commission**

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**HINEKUNGO' INILAO
(OVERSIGHT HEARING)**

*Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)*

*alas dos gi despues di talo åni
(2:00 PM)*

UPDATE ON HOTEL OCCUPANCY TAX (HOT) BOND PROJECTS

Yanggen un nisisita espesiåt na setbisio put fabot ågang i Ifsinan Senadot ben pangelinan gi 473- Yanggen un nisisita espesiåt na setbisio, put fabot ågang i Ifsinan Sinadot Vicente (ben) Cabrera Pangelinan gi 473-4236/7. Yanggen un nisisita kopian i priniponi siha ginen este na tareha, hålom gi i uepsait i Liheslaturan Guåhan gi www.guamlegislature.com Yanggen para un na hålom testigu-mu, chule' para i ifsinan-måmi gi 324 West Soledad Avenue gi iya Hagåtña, pat guatto gi i Kuåtton Katta gi i Liheslatura, pat faks gi 473-4238, patsino imel gi senbenp@guam.net. Este na nutisiu inapåsi nu i fendon gubetnamento.

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I Mina'trentai Dos na Liheslaturan Guåhan

Senator Vicente (ben) Cabrera Pangelinan (D)

March 8, 2013

Memorandum

To: All Senators

From: Senator Vicente (ben) Cabrera Pangelinan 

Re: Public Hearing – SECOND NOTICE

Chairman
Committee on Appropriations,
Public Debt, Legal Affairs,
Retirement, Public Parks,
Recreation, Historic Preservation
and Land

Member
Committee on Education,
Public Libraries
and Women's Affairs

Member
Committee on General
Government Operations and
Cultural Affairs

Member
Committee on Municipal
Affairs, Tourism, Housing and
Hagåtña Restoration and
Development Authority

Member
Committee on Health &
Human Services, Health
Insurance Reform, Economic
Development and Senior
Citizens

Member
Committee on Aviation, Ground
Transportation, Regulatory
Concerns and Future
Generations

The Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land will conduct a public hearing beginning at **9:00am** and Oversight Hearing beginning at **2:00pm** on **Tuesday, March 12, 2013** at the Guam Legislature's Public Hearing Room.

The following is the agenda:

Komfitmasion Siha:
(Confirmation Hearing)

Mr. Pelagio S. Sardoma, Member for the Board of Equalization
Mr. Victor F. Cruz, Member for the Guam Land Use Commission

Priniponi Siha
(Bills)

Bill No. 5-32 (LS): An Act to add a new §40128 Chapter 40 of 5GCA Relative to placing the former FQ Sanchez Elementary School Facility under the jurisdiction of the Umatac Mayor's Office

Bill No. 17-32 (COR): An Act to allow for conditional use of property situated in the Municipality of Dededo for meetings and cultural purposes, specifically Lots 15-3 and 15-R3, both of Tract 1413, which are currently zoned "A" (Agricultural), containing an area of 4,208.7+ square meters, and bordered by Alageta Road.

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Bill No. 47-32 (LS): An Act to add a new Section 8103.1 to Article 1, Chapter 8, Title 4 of the Guam Code Annotated to comply with Internal Revenue Code requirements applicable to the Government of Guam Retirement Fund.

324 W. Soledad Ave. Suite 100, Hagåtña, Guam 96910

Tel: (671) 473-(4BEN) 4236 - Fax: (671) 473-4238 - Email: senbenp@guam.net

Website: <http://senbenp.com>

Memo to All Senators
March 8, 2013
Page 2

Bill No. 54-32 (COR): An Act to Amend §511005 and §511006 and to add §511007 and §511008 to Chapter 51 Article 10 of 10 Guam Code Annotated and to add §5120 to Chapter 5 Part B of 5 Guam Code Annotated relative to the Fund Management of the Host Community Benefits.

**HINEKUNGO' INILAO
(OVERSIGHT HEARING)**

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Lisa Dames <cipo@guamlegislature.org>

Public Hearing - SECOND NOTICE

Lisa Dames <cipo@guamlegislature.org>
To: phnotice@guamlegislature.org

Sun, Mar 10, 2013 at 8:50 AM

Senator Vicente "ben" Cabrera Pangelinan

Office of the People

Website: www.senbenp.com

INEKUNGOK PUPBLEKO
(PUBLIC HEARING)

gi Máttes, gi diha 12 gi Mátso, 2013)

Tuesday, March 12, 2013

Kuátton Inekungok Pupbleko gi I Liheslaturan Guáhan
(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an
(9:00 AM)

TAREHA
(AGENDA)

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HINEKUNGO' INILAO

(OVERSIGHT HEARING)

Kuátton Inekungok Pupleko gi l Liheslaturan Guáhan

(Guam Legislature Public Hearing Room)

alas dos gi despues di talo áni

(2:00 PM)

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Lisa Dames
Chief of Staff
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Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
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Lisa Dames <cipo@guamlegislature.org>

Public Hearing SECOND NOTICE

Lisa Dames <cipo@guamlegislature.org>

Sun, Mar 10, 2013 at 8:52 AM

To: news@k57.com, news@guampdn.com, Sabrina Salas <sabrina@kuam.com>, Jason Salas <jason@kuam.com>, Mindy Aguon <mindy@kuam.com>, nick@kuam.com, Ken Quintanilla <kenq@kuam.com>, Krystal Paco <krystal@kuam.com>, Josh Tyquiengco <jtyquiengco@k57.com>, clynt@k57.com, Betsy Brown <betsy@k57.com>, Kevin Kerrigan <kevin@k57.com>, gerry@mvguam.com, joy@mvguam.com, Jon Anderson <editor@mvguam.com>, rgibson@k57.com, ALICIA PEREZ <aliciaperez69@hotmail.com>, Alicia Perez <perezksto@gmail.com>, Gaynor Daleno <gdumat-ol@guampdn.com>, slimtiaco@guampdn.com, bmkelman@guampdn.com, Oyaol Ngirairikl <odngirairikl@guampdn.com>, Jerick Sablan <jpsablan@guampdn.com>, life@guampdn.com

Senator Vicente “ben” Cabrera Pangelinan

Office of the People

Website: www.senbenp.com

INEKUNGOK PUPBLEKO

(PUBLIC HEARING)

gi Máttes, gi diha 12 gi Mátso, 2013)

Tuesday, March 12, 2013

Kuátton Inekungok Pupbleko gi I Liheslaturan Guáhan

(Guam Legislature Public Hearing Room)

alas nuebi gi eggan’an

(9:00 AM)

TAREHA

(AGENDA)

Komfitmasion Siha:

(Confirmation Hearing)

Mr. Pelagio S. Sardoma, Member for the Board of Equalization

Mr. Victor F. Cruz, Member for the Guam Land Use Commission

Priniponi Siha:

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HINEKUNGO’ INILAO

(OVERSIGHT HEARING)

Kuátton Inekungok Pubbleko gi I Liheslaturan Guáhan

(Guam Legislature Public Hearing Room)

alas dos gi despues di talo áni

(2:00 PM)

UPDATE ON HOTEL OCCUPANCY TAX (HOT) BOND PROJECTS

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Chief of Staff
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I Mina trenta Dos na Liheslaturan Guåhan
32nd GUAM LEGISLATURE
Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriation, Public Debt, Legal Affairs, Retirement
Public Parks, Recreation, Historic Preservation, and Land

INEKUNGOK PUPBLEKO - (PUBLIC HEARING)

gi Máttes, gi día 12 gi Mátse, 2013 - Tuesday, March 12, 2013

Kuaiton Inekungok Pupbleko gi Liheslaturan Guåhan - (Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an - (9:00 AM)

TAREHA - (AGENDA)

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Mr. Victor F. Cruz, Member for the Guam Land Use Commission

Priniponi Siha: - (Bills)

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HINEKUNGO' INILAO - (OVERSIGHT HEARING)

Kuaiton Inekungok Pupbleko gi Liheslaturan Guåhan - (Guam Legislature Public Hearing Room)

alas dos gi despues di tako ñil - (2:00 PM)

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32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan
Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public
Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

gi Måttes, gi diha 12 gi Måtso, 2013
(Tuesday, March 12, 2013)

Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)

alas nuebi gi eggan'an
(9:00 AM)

**TAREHA
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(Confirmation Hearing)

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(OVERSIGHT HEARING)**

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alas dos gi despues di talo åni
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32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

**INEKUNGOK PUPBLEKO
(PUBLIC HEARING)**

**gi Måttes, gi diha 12 gi Måtso, 2013)
Tuesday, March 12, 2013**

**Kuåtton Inekungok Pupbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)**

**alas nuebi gi eggan'an
(9:00 AM)**

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(AGENDA)**

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Mr. Victor F. Cruz, Member for the Guam Land Use Commission**

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(WITHDRAWN)~~**

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I Mina'trentai Dos na Liheslaturan Guåhan

32nd GUAM LEGISLATURE

Senator Vicente (ben) Cabrera Pangelinan

Committee on Appropriations, Public Debt, Legal Affairs, Retirement, Public Parks, Recreation, Historic Preservation, and Land

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POSTPONED UNTIL FURTHER NOTICE

**HINEKUNGO' INILAO
(OVERSIGHT HEARING)**

***Kuåtton Inekungok Pubbleko gi I Liheslaturan Guåhan
(Guam Legislature Public Hearing Room)***

**alas dos gi despues di talo åni
(2:00 PM)**

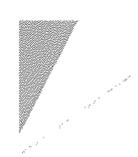
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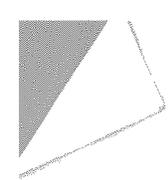
UPDATED 2013.02.11

32GL Senators:

"Judith T. Won Pat, Ed.D." <speaker@judiwonpat.com>, "Benjamin JF Cruz" <senator@senatorbjcruz.com>, "Tina Rose Muna Barnes" <tinamunabarnes@gmail.com>, "Rory J. Respicio" <roryforguam@gmail.com>"Thomas C. Ada" <tom@senatorada.org>, "Frank Blas Aguon, Jr." <aguon4guam@gmail.com>, "vicente 'ben' pangelinan" <senbenp@guam.net>,"Dennis G. Rodriguez" <senatordrodriguez@gmail.com>, "Michael F. Q. San Nicolas" <responsibleguam@gmail.com>, "V. Anthony Ada" <tony@tonyada.com >, "Christopher M. Duenas" <duenasenator@gmail.com>, "Michael T. Limtiaco" <mike@mikelimtiaco.com>, "Brant McCreadie" <brantforguam@gmail.com>, "Thomas (Tommy) Morrison" <tommy@senatormorrison.com>, "Aline A. Yamashita, Ph.D" <aline4families@gmail.com>

32GL Senator Staff

therese@judiwonpat.com, frank@judiwonpat.com,
rob@judiwonpat.com, jason@judiwonpat.com, wil@judiwonpat.com, steve@judiwonpat.com,
faith@judiwonpat.com,
senator@senatorbjcruz.com, carlos.pangelinan@senatorbjcruz.com, mike.lidia@senatorbjcruz.com,
m, chris.carillo@senatorbjcruz.com, sgflores@tinamunabarnes.com,
jblas@tinamunabarnes.com, jean@tinamunabarnes.com, Vparriola1@gmail.com,
etajalle@guamlegislature.org, tjtaitano@cs.com, mlwheeler2000@yahoo.com,
phillipsguam@gmail.com, avon.guam@gmail.com, jennifer.lj.dulla@gmail.com,
marymaravilla19@gmail.com, chechsantos@gmail.com, committee@frankaguonjr.com,
admin@frankaguonjr.com, cipo@guamlegislature.org, chris.budasi@guamlegislature.org,
aokada@guamlegislature.org, smendiola@guamlegislature.org,
avillaverde@guamlegislature.org, ahernandez@guamlegislature.org, sonedera-
salas@guamlegislature.org, berthaduenas@gmail.com, emqcho@gmail.com,
nsantos@guamlegislature.org, karenc@guamlegislature.org , senatorsannicolas@gmail.com,
alerta.jermaine@gmail.com, louise@tonyada.com, pete@tonyada.com, ed@tonyada.com,
val@tonyada.com, santos.duenas@gmail.com, mcarlson@guamlegislature.org,
ang.duenas@gmail.com, angela.lgrios@gmail.com, mike@mikelimtiaco.com,
conedera@mikelimtiaco.com, cos@senatormorrison.com, manuela@senatormorrison.com,
ryanjames@senatormorrison.com, tanya4families@gmail.com, lou4families@gmail.com,
evelyn4families@gmail.com, jcamacho@senatorada.org, cyrus@senatorada.org,
Juliette@senatorada.org, office@senatorada.org, coy@senatorada.org, tom@senatorada.org,
carlaborja.73@gmail.com, baza.matthew@gmail.com, senatordrodriguez@gmail.com,
clifton@toduguam.com, cherbert.senatordrodriguez@gmail.com, rfteehan@yahoo.com,
amanda@toduguam.com, nicole@toduguam.com, joe@toduguam.com,
jmesngon.senatordrodriguez@gmail.com, sitarose2@yahoo.com, meia@toduguam.com,
menchu@toduguam.com





COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
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Member

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Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

February 19, 2013

VIA FACSIMILE

(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. 43-32 through 44-32 (COR) and Bill Nos. 45-32 through 47-32 (LS)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bill. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

Bill No. 43-32 (COR) - B..J.F. Cruz - AN ACT TO ADD A NEW (b) (1) AND (2) TO § 67.801; AND TO ADD A NEW § 67.802 AND § 67.803 TO ARTICLE 8 OF CHAPTER 67 OF TITLE 9 GUAM CODE ANNOTATED RELATIVE TO STRENGTHENING THE PENALTIES FOR THE POSSESSION, MANUFACTURING, SELLING, OR DISTRIBUTION OF ANY SYNTHETIC CANNABINOID OR SALVIA DIVINORUM.

Bill No. 44-32 (COR) - Judith T. Won Pat, Ed.D - AN ACT TO AMEND §23111(g)(2) OF CHAPTER 23, DIVISION 2, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE USE OF MILEAGE EARNED THROUGH CREDIT CARD PURCHASES AUTHORIZED BY THE GOVERNMENT OF GUAM, TO SUPPORT STUDENT TRAVEL INVOLVING ACADEMIC, SPORTS AND CULTURAL ACTIVITIES.

Bill No. 45-32 (LS) - Brant T. McCreadie - AN ACT TO ADD §5004.1 OF CHAPTER 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ALLOWING THE GUAM MEMORIAL HOSPITAL TO OBTAIN PROFESSIONAL SERVICES IN ACCORDANCE WITH INDUSTRY PRACTICE.

Bill No. 46-32 (LS) - T.R. Muna Barnes - AN ACT TO AMEND A SUBSECTION (c) AND SUBSECTION (h) OF ARTICLE 1, CHAPTER 10, TITLE 5, GUAM CODE ANNOTATED RELATIVE TO THE RIGHT OF INSPECTION

Bill No. 47-32 (LS) - V.C. Pangelinan - AN ACT TO ADD A NEW SECTION 8103.1 TO ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, TO COMPLY WITH INTERNAL REVENUE CODE REQUIREMENTS APPLICABLE TO THE GOVERNMENT OF GUAM RETIREMENT FUND



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February 19, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 47-32(LS)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of Bill No. **47-32(LS)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

**MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) REGULAR SESSION**

Bill No. 47-32 (LS)

Introduced by:

v.c. pangelinan 

**AN ACT TO ADD A NEW SECTION 8103.1 TO
ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE
ANNOTATED, TO COMPLY WITH INTERNAL REVENUE
CODE REQUIREMENTS APPLICABLE TO THE
GOVERNMENT OF GUAM RETIREMENT FUND**

2013 FEB 19 AM 11:17 

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **SECTION 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that
2 Article 1, Chapter 8, Title 4 of the Guam Code Annotated must be amended to comply with the
3 requirements for tax-qualified governmental pension plans under section 401(a) of the United
4 States Internal Revenue Code of 1986, as amended, applicable to Guam under the mirror
5 provisions of the Guam Territorial Income Tax Code.

6 **SECTION 2. A new Section 8103.1 of Article 1, Chapter 8, Title 4 of the Guam**
7 **Code Annotated is hereby added to read as follows:**

8 **“§ 8103.1. Tax Qualification Requirements.**

9 (a) The Fund shall maintain its status as a tax-qualified governmental pension plan
10 under section 401(a) of the Code. As used in this Article, “Code” means the United States
11 Internal Revenue Code of 1986, as amended, applicable to Guam under the mirror provisions of
12 the Guam Territorial Income Tax Code.

13 (b) The Fund shall be administered in accordance with the requirements of section
14 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and (37) of the Code, as such provisions, as
15 amended, apply to a governmental pension plan sponsored by the Government of Guam.
16 Without limiting the generality of the foregoing and notwithstanding any other provision of this
17 Article to the contrary:

1 (b) The Fund shall be administered in accordance with the requirements
2 of section 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and (37) of the Code, as
3 such provisions, as amended, apply to a governmental pension plan sponsored by
4 the Government of Guam. Without limiting the generality of the foregoing and
5 notwithstanding any other provision of this Article to the contrary:

6 (1) In accordance with sections 401(a)(1) and 401(a)(2) of the
7 Code, the Board shall hold the corpus and income of the Fund in trust, and at
8 no time prior to the satisfaction of all liabilities with respect to members and
9 their beneficiaries shall any part of the corpus or income of the Fund be used
10 for, or diverted to, purposes other than for the exclusive benefit of the
11 members and their beneficiaries.

12 (2) In accordance with section 401(a)(7) of the Code, in the event
13 of the termination of or complete discontinuance of contributions to the
14 Fund, the rights of all members to benefits accrued as of the date of such
15 termination or discontinuance, to the extent then funded, shall be fully
16 vested and nonforfeitable.

17 (3) In accordance with section 401(a)(8) of the Code, benefits
18 forfeited by a member for any reason shall not be applied to increase the
19 benefits any other member or beneficiary would otherwise receive under this
20 Article.

21 (4) All benefit distributions shall be administered in accordance

1 with a reasonable good-faith interpretation of section 401(a)(9) of the Code.
2 The following describes the statutory requirements of section 401(a)(9) of
3 the Code:

4 (i) The member's entire interest shall be distributed to the
5 member no later than the member's required beginning date, or the
6 member's entire interest must begin to be distributed to the member
7 no later than the member's required beginning date and must be paid
8 over the life of the member or the lives of the member and a
9 designated beneficiary (or over a period that does not extend beyond
10 the life expectancy of the member or the life expectancy of the
11 member and a designated beneficiary). The "required beginning date"
12 is April 1 of the calendar year following the later of (1) the calendar
13 year in which the member attains age 70½ or (2) the calendar year in
14 which the member retires.

15 (ii) If the distribution of the member's interest has begun in
16 accordance with paragraph (i) and the member dies before the
17 member's entire interest has been distributed, the remaining portion
18 must be distributed at least as rapidly as under the method of
19 distribution being used to satisfy paragraph (i).

20 (iii) If the member dies before distribution of the member's
21 interest has begun under paragraph (i), the member's entire interest

1 shall be distributed, or begin to be distributed, no later than as follows:

2 (A) If the member's surviving spouse is the member's
3 sole designated beneficiary, distributions to the surviving
4 spouse shall begin by December 31 of the calendar year
5 immediately following the calendar year in which the member
6 dies, or by December 31 of the calendar year in which the
7 member would have attained age 70½, if later;

8 (B) If the member's surviving spouse is not the
9 member's sole designated beneficiary, distributions to the
10 designated beneficiary shall begin by December 31 of the
11 calendar year immediately following the calendar year in which
12 the member died, and shall be paid over the life of such
13 designated beneficiary (or over a period not extending beyond
14 the life expectancy of such beneficiary); or

15 (C) If there is no designated beneficiary, the member's
16 entire interest shall be distributed by December 31 of the
17 calendar year containing the fifth anniversary of the member's
18 death.

19 (iv) All death benefits shall be administered to comply with
20 the incidental death benefit requirement in section 401(a)(9)(G) of the
21 Code.

1 (5) In accordance with section 401(a)(16), benefits paid from, and
2 mandatory employee contributions made to, the Fund shall not exceed the
3 maximum benefits and the maximum annual additions, respectively,
4 permissible under section 415 of the Code with respect to governmental
5 plans.

6 (i) Specifically, the “annual benefit,” which is a benefit
7 payable in the form of a straight life annuity, may not exceed the
8 dollar limit described in section 415(b)(1)(A) of the Code, as
9 automatically adjusted for increases in the cost of living under section
10 415(d) of the Code. For benefits payable in the plan year ending
11 September 30, 2010, the dollar limit is \$195,000. The 12-month plan
12 year ending each September 30 shall be the “limitation year” for
13 purposes of applying the limitations under section 415 of the Code.
14 Section 415 of the Code and the Treasury Regulations thereunder
15 require that adjustments be made to the dollar limit for benefits that
16 commence prior to age 62 or after age 65 and for benefits payable to
17 members with less than ten years of membership. The Code and
18 Treasury Regulations require that any benefit payable in a form other
19 than a straight life annuity must be converted to an actuarially
20 equivalent straight life annuity in applying the applicable limit to the
21 “annual benefit”.

1 (ii) The “annual benefit” does not include the portion of the
2 member’s benefit attributable to mandatory employee contributions
3 under section 8136. Rather, mandatory employee contributions are
4 treated as contributions to a defined contribution plan for purposes of
5 section 415 of the Code, and are therefore subject to the limits on
6 annual additions under section 415(c)(1) of the Code. The annual
7 additions may not exceed the lesser of the two limits. The first limit is
8 the dollar limit described in section 415(c)(1)(A) of the Code, as
9 automatically adjusted for increases in cost of living under section
10 415(d) of the Code. For the limitation year ending September 30,
11 2010, the dollar limit is \$49,000. The second limit is the
12 compensation limit described in section 415(c)(1)(B) of the Code
13 which provides that the annual additions may not exceed 100% of the
14 member’s “section 415 compensation” for the limitation year.

15 (iii) “Section 415 compensation” means the member’s Box 1,
16 W-2 earnings for the year, modified to include any pre-tax elective
17 deferrals pursuant to sections 403(b), 457(b), 125, or 132(f)(4) of the
18 Code. Generally, section 415 compensation does not include amounts
19 paid after severance from employment. However, section 415
20 compensation does include amounts paid by the later of 2½ months
21 after the member’s severance from employment or the end of the

1 limitation year that includes the date of the member's severance from
2 employment if the payment is regular compensation for services
3 during the member's regular working hours, or compensation for
4 services outside the member's regular working hours (such as
5 overtime or shift differential), commissions, bonuses, or similar
6 payments, and, absent the severance from employment, the payments
7 would have been paid to the member while the member continued in
8 employment with the Government. Section 415 compensation also
9 includes any payments to or for the benefit of a member who does not
10 currently perform services for the Government by reason of Qualified
11 Military Service, as defined in subsection (9) below, to the extent
12 those payments do not exceed the amounts the member would have
13 received if the member had continued to perform services for the
14 Government rather than entering Qualified Military Service. Section
15 415 compensation also includes "differential wage payments" within
16 the meaning of section 3401(h)(2) of the Code with respect to the
17 period during which the member is on active duty in Qualified
18 Military Service. Finally, section 415 compensation includes
19 payments awarded by an administrative agency or court or pursuant to
20 a bona fide agreement by the Government to compensate a member
21 for lost wages. Such payments for back pay are treated as section 415

1 compensation for the limitation year to which the back pay relates to
2 the extent the back pay represents wages and compensation that would
3 otherwise be included as section 415 compensation under this
4 subsection.

5 (6) In accordance with section 401(a)(17) of the Code, for purposes
6 of calculating contributions payable to the Fund and benefits payable from
7 the Fund, “salary,” “annual salary,” and “average annual salary” shall be
8 subject to the annual limit on compensation under section 401(a)(17) of the
9 Code, which limit is adjusted automatically for increases in the cost of living
10 under sections 401(a)(17)(B) and 415(d) of the Code. For the plan year
11 ending September 30, 2010, the limit is \$245,000.

12 (7) In accordance with section 401(a)(25) of the Code, in the case
13 that the amount of member's benefit payable by the Fund is to be determined
14 on the basis of actuarial assumptions, such assumptions shall be specified
15 under Fund documents.

16 (8) In accordance with section 401(a)(31) of the Code, a
17 “Distributee” who is entitled to a distribution may elect, at the time and in
18 the manner determined by the Board, to have any portion of an “Eligible
19 Rollover Distribution” that is equal to at least \$500 (or such other minimum
20 amount required under the Code or Treasury Regulations) paid directly in a
21 “Direct Rollover” to an “Eligible Retirement Plan”. For purposes of these

1 rules, the following definitions apply:

2 (i) "Eligible Rollover Distribution" means any distribution
3 of all or any portion of a member's vested benefit, except that an
4 Eligible Rollover Distribution shall not include:

5 (A) any distribution that is one of a series of
6 substantially equal periodic payments made no less frequently
7 than annually for the life (or life expectancy) of the Distributee
8 or the joint lives (or joint life expectancies) of the Distributee
9 and the Distributee's beneficiary, or for a specified period of
10 ten years or more;

11 (B) any distribution to the extent such distribution is
12 required under section 401(a)(9) of the Code; and

13 (C) the portion of any distribution that is not includible
14 in gross income.

15 Notwithstanding the foregoing, a distribution shall not fail to be an
16 Eligible Rollover Distribution merely because the distribution consists
17 of after-tax employee contributions that are not includible in gross
18 income. However, such portion may be transferred only to an
19 individual retirement account described in section 408(a) of the Code
20 or an individual retirement annuity described in section 408(b) of the
21 Code (other than an endowment contract), or to a qualified retirement

1 plan (defined contribution or defined benefit) described in section
2 401(a) of the Code or an annuity contract described in section 403(b)
3 of the Code, provided that the qualified trust or annuity contract
4 agrees to separately account for amounts so transferred (and the
5 earnings thereon), including separately accounting for the portion of
6 such distribution which is includible in gross income and the portion
7 which is not so includible.

8 (ii) "Eligible Retirement Plan" shall mean any of the
9 following accounts or plans to the extent it accepts the Distributee's
10 Eligible Rollover Distribution:

11 (A) A qualified retirement plan described in section
12 401(a) of the Code;

13 (B) An individual retirement account described in
14 section 408(a) of the Code;

15 (C) An individual retirement annuity described in
16 section 408(b) of the Code (other than an endowment contract);

17 (D) An annuity plan described in section 403(a) of the
18 Code;

19 (E) An annuity contract described in section 403(b) of
20 the Code, or

1 (F) An eligible deferred compensation plan described
2 in section 457(b) of the Code that is maintained by an eligible
3 governmental employer described in section 457(e)(1)(A) of the
4 Code and that agrees to separately account for amounts
5 transferred into such plan from this Plan.

6 (iii) A “Distributee” includes a member, the surviving spouse
7 of a deceased member, and the current or former spouse of a member
8 who is an alternate payee under a qualified domestic relations order
9 that has been approved by the Board.

10 (iv) A “Direct Rollover” is a direct payment by the Fund to
11 the Eligible Retirement Plan specified by the Distributee.

12 (v) A non-spouse beneficiary may elect a Direct Rollover to
13 an individual retirement account or individual retirement annuity
14 described in paragraph (ii)(B) or (C) established for the purpose of
15 receiving the distribution on behalf of the non-spouse beneficiary.

16 (vi) A Distributee may elect a Direct Rollover to a Roth IRA
17 as described in section 408A of the Code if the Distributee meets the
18 requirements that apply to rollovers from a traditional IRA to a Roth
19 IRA (i.e., for tax years prior to January 1, 2010, the Distributee’s
20 modified adjusted gross income cannot exceed \$100,000, and the
21 Distributee must not be married filing a separate return).

1 (vii) In prescribing the manner of making elections with
2 respect to Eligible Rollover Distributions, as described above, the
3 Board may provide for the uniform application of any restrictions
4 permitted under applicable sections of the Code and Treasury
5 Regulations, including a requirement that a Distributee may not elect
6 to make a direct rollover from a single eligible rollover distribution to
7 more than one eligible retirement plan. The Board may require a
8 recipient plan to provide a written statement that it will accept the
9 rollover and separately account for the amount rolled over, where
10 appropriate.

11 (viii) Prior to making an Eligible Rollover Distribution, the
12 Board shall provide the Distributee a notice describing the
13 Distributee's right to make a Direct Rollover to an Eligible Retirement
14 Plan (the "402(f) Notice"). The Board shall issue the 402(f) Notice at
15 least 30 days but no more than 180 days prior to the date a distribution
16 is made. However, such Eligible Rollover Distribution may
17 commence less than 30 days after the notice is given provided that the
18 402(f) Notice clearly informs the Distributee that the Distributee has
19 the right to a period of at least 30 days after receiving the notice to
20 consider the decision of whether or not to elect a Direct Rollover, and

1 the Distributee, after receiving the notice, affirmatively elects a
2 distribution.

3 (9) In accordance with section 401(a)(37) of the Code, the
4 Uniformed Services Employment and Reemployment Rights Act of 1994
5 (“USERRA”), as amended, provides certain pension benefit rights to
6 employees who return to employment with their employer following a leave
7 of absence for "Qualified Military Service" as defined hereunder. Section
8 8137.2 also provides certain rights to employees who are on leave without
9 pay and on active duty with the Guam National Guard or the reserve
10 components of any of the Armed Services of the United States. Any
11 member who returns to employment with the Government following
12 Qualified Military Service shall be entitled to the greater of the rights the
13 member is entitled to under section 8137.2 or the reemployment pension
14 rights in section 414(u) of the Code. In the case of a member who dies while
15 performing Qualified Military Service, the survivors of the member are
16 entitled to any additional benefits (other than benefit accruals relating to the
17 period of Qualified Military Service) provided under the Fund had the
18 member resumed and then terminated employment on account of death.
19 This would include the death benefits provided under sections 8131 and
20 8134. For purposes of this section and applying the requirements of
21 USERRA, “Qualified Military Service” means such term as defined in

1 section 414(u)(5) of the Code (any service in the Armed Forces (Army, Air
2 Force, Navy, Marines, or Coast Guard), the Army National Guard and the
3 Air National Guard when engaged in active duty for training, inactive duty
4 training, or full-time National Guard duty, the commissioned corps of the
5 Public Health Service, and any other category of persons designated by the
6 President in time of war or national emergency).

7 **SECTION 3. Severability.** *If* any provision of this Act or its
8 application to any person or circumstance is held invalid, the invalidity *shall not*
9 affect other provisions or applications of this Act which can be given effect
10 without the invalid provision or application and to this end the provisions of this
11 Act is severable.

12