I Mina'Trentai Tres Na Liheslaturan Received

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
PUBLIC LAW 33-186 2-33 (LS)	B. J.F. Cruz Michael F.Q. San Nicolas	AN ACT TO *ADD* A NEW ARTICLE 5 TO TITLE 4, CHAPTER 8, OF THE GUAM CODE ANNOTATED TO CREATE A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATE A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") WITH MANDATORY PARTICIPATION BY NEW GOVERNMENT OF GUAM EMPLOYEES HIRED AFTER DECEMBER 31, 2017; WITH OPTIONAL PARTICIPATION FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM PARTICIPANTS WHO ELECT TO TRANSFER TO THE NEW "DEFINED BENEFIT 1.75" PLAN OR THE GUAM RETIREMENT SECURITY PLAN IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* SECTIONS 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO *AMEND* THE FIRST SENTENCE OF SECTION 8137(B), CHAPTER 8, ARTICLE 1, TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE	01/05/15 10:53 a.m.	01/06/15	Committee on Appropriations and Adjudication	11/19/15 6:00 p.m. ROUNDTABLE 12/07/15 10:00 a.m. ROUNDTABLE 03/23/16 3:00 p.m. ROUNDTABLE 04/21/16 6:00 p.m.	04/27/16 7:36 p.m. As substituted by the Committee on Appropriations and Adjudication.	**Fiscal Note Request** 01/08/15 **Fiscal Note** 07/08/15
	DATE PASSED	**TITLE**	**DATE AND TIME TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY *I MAGA'LÅ HEN GUÅHAN***	**PUBLIC LAW NO.**	**NOTES**
	05/03/16	AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO *AMEND* § 8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE.	05/05/16	4:46 p.m.	05/17/16			**VETOED 05/17/16 M&C No. 33GL-16-1643**
	DATE OVERRIDDEN	**TITLE**	**DATE AND TIME TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY *I MAGA'LÅ HEN GUÅHAN***	**PUBLIC LAW NO.**	**NOTES**
	09/14/16	AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO *AMEND* § 8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE.	09/14/16	3:00 p.m.		**without the Governor's signature 09/20/16**	**P.L. 33-186**	**M&C No. 33GL-16-2035**

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

SEP 2 0 2016

33-16-2035
Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 9/22/16
Time: 10:02 AM
Received By:

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 2-33 (LS) "**AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS (6.2%); AND TO *AMEND* § 8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE,**" which was enacted into law without the signature of Eddie Baza Calvo. The legislation is now designated as **Public Law 33-186.**

2016 SEP 20 AM 10:37

Senseramente,

RAY TENORIO
I Maga'låhen Guåhan, para pa'go
Acting Governor of Guam

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2016 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LÅHEN GUÅHAN*

This is to certify that **Substitute Bill No. 2-33 (LS), "AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO *AMEND* § 8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE,"** was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 14th day of September 2016, to pass said bill notwithstanding the veto of *I Maga'låhen Guåhan* by a vote of eleven (11) members.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 14th day of SEPT., 2016, at 8:00 o'clock p.m.

Assistant Staff Officer
Maga'låhi's Office

Public Law No. 33-186

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY
TIME 3:00 pm DATE 14 SEPT 16

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 2-33 (LS)
As substituted by the Committee on Appropriations
and Adjudication; amended in the Committee of the Whole;
and further amended on the Floor.

Introduced by:

B. J. F. Cruz
Michael F.Q. San Nicolas
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
Frank F. Blas, Jr.
James V. Espaldon
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Dennis G. Rodriguez, Jr.
Mary Camacho Torres
N. B. Underwood, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW ARTICLE 5 TO CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED RELATIVE TO CREATING A NEW "DEFINED BENEFIT 1.75" RETIREMENT SYSTEM; AND TO CREATING A NEW CASH BALANCE PLAN ("GUAM RETIREMENT SECURITY PLAN") AS ALTERNATIVES TO THE DEFINED CONTRIBUTION RETIREMENT SYSTEM UPON TIMELY ELECTION IN ACCORDANCE WITH REGULATIONS TO BE PROMULGATED; TO *AMEND* §§ 8208 AND 8209(a) OF ARTICLE 2, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO INCREASING THE DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBER AND EMPLOYER CONTRIBUTIONS TO SIX AND TWO TENTHS PERCENT (6.2%); AND TO *AMEND* §

8137(B), ARTICLE 1, CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE AMORTIZATION PERIOD OF THE UNFUNDED LIABILITY FOR PRIOR SERVICE.

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

2 **Section 1. Legislative Findings and Intent.** *I Mina'Trentai Tres Na*
3 *Liheslaturan Guåhan* finds that there are three (3) separate retirement plans
4 generally available to government of Guam employees: (a) employees employed on
5 or before September 30, 1995 were required to become members of the Retirement
6 Fund (Defined Benefit Plan) under Article 1, Chapter 8, Title 4 of the Guam Code
7 Annotated; (b) employees employed after September 30, 1995 were and remain
8 required to become participants in the Defined Contribution Retirement System
9 under Article 2, Chapter 8, Title 4 of the Guam Code Annotated; and (c) all
10 employees, except those participating in a government of Guam sponsored plan
11 under Section 403(b) of the Internal Revenue Code, may voluntarily participate in
12 the Deferred Compensation Program under Article 3, Chapter 8, Title 4 of the Guam
13 Code Annotated.

14 *I Mina'Trentai Tres Na Liheslaturan Guåhan* further finds that the Defined
15 Contribution Retirement System was established in 1995 amid concerns and findings
16 by the Twenty-Third Guam Legislature that:

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

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

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

Public Law 23-42:1.

I Mina'Trentai Tres Na Liheslaturan Guåhan has continued to review benefit levels and retirement policy in light of retirements of participants in the Defined Contribution Retirement System, as well as the Defined Benefit Plan. The review by *I Mina'Trentai Tres Na Liheslaturan Guåhan* involved consideration of a comprehensive and detailed study by Milliman, Inc. of alternative retirement plans and arrangements, based upon the Actuarial Valuation under the Defined Benefit Plan as of September 30, 2008, and updated through September 30, 2014. The alternatives, which included cost comparisons between Social Security, the Defined Contribution Retirement System, Social Security plus the Defined Contribution Retirement System, and the Defined Benefit 1.75 Plan (formerly known as the Hybrid Plan) herein, were prepared as part of an analysis of funding requirements and retirement benefit levels of participants in the Defined Contribution Retirement System and future government of Guam employees.

I Mina'Trentai Tres Na Liheslaturan Guåhan finds that an alternative retirement program that combines a defined benefit "floor" of benefits, along with a mandatory salary reduction deferred compensation program, is necessary to provide a reasonable opportunity for current government employees to maintain their standards of living in retirement, while also balancing the government's budgetary needs and obligations to active and retired government employees and their survivors. *I Mina'Trentai Tres Na Liheslaturan Guåhan* finds that this combination of benefits under an alternative "Defined Benefit 1.75 Retirement System" is reasonable and prudent to balance the needs of government employees as well as the

1 government as a whole.

2 *I Mina'Trentai Tres Na Liheslaturan Guåhan* intends to establish a new
3 "Defined Benefit 1.75 Retirement System" to be comprised of participation in: (1)
4 the preexisting Retirement Fund that *shall* provide for an unreduced retirement
5 defined benefit equal to one and seventy-five hundredths percent (1.75%) of an
6 employee's average annual salary for each year of credited service at retirement age
7 62; and (2) the preexisting Deferred Compensation Program providing for a
8 mandatory pre-tax salary reduction contribution equal to one percent (1%) of a
9 member's base salary.

10 *I Mina'Trentai Tres Na Liheslaturan Guåhan* further intends to create and
11 establish an alternative new retirement plan to provide for the secure, fair, and
12 orderly retirement of the personnel of the government of Guam. The new retirement
13 plan is intended to be a tax-qualified cash balance plan to be known as the
14 government of Guam Retirement Security Plan (GRSP) which *shall* constitute a
15 body corporate and all business of the GRSP *shall* be established in the name of the
16 government of Guam Retirement Security Plan. The Board of Trustees created
17 pursuant to Article 1, Chapter 8, Title 4 of the Guam Code Annotated *shall*
18 administer the government of Guam Retirement Security Plan. The Board of
19 Trustees may sue and be sued, contract and be contracted with and conduct all the
20 business of the GRSP in the name of the government of Guam Retirement Security
21 Plan.

22 *I Mina'Trentai Tres Na Liheslaturan Guåhan* intends that beginning January
23 1, 2018, the GRSP and the Defined Contribution Retirement System *shall* be the
24 retirement programs for all new employees whose employment commences on or
25 after that date. After January 1, 2018, all new employees *shall* be automatically
26 enrolled into the GRSP but will have sixty (60) days from the date of hire to elect to
27 participate in the Defined Contribution Retirement System.

I Mina'Trentai Tres Na Liheslaturan Guåhan further intends to allow participants with interests in the Defined Contribution Retirement System to timely elect to participate in, and in certain circumstances, transfer their account balances to, either the "Defined Benefit 1.75 Retirement System" or the GRSP, in accordance with the adoption of regulations promulgated by the Board of Trustees of the Retirement Fund pursuant to the Administrative Adjudication Act.

I Mina'Trentai Tres Na Liheslaturan Guåhan further intends that, effective January 1, 2018, members' and employer contributions to members' accounts in the Defined Contribution Retirement System *shall* be increased from five percent (5%) to six and two tenths percent (6.2%).

Section 2. Summary of Key Provisions in New Defined Benefit 1.75 Retirement System. A new Article 5 as described in Section 3 of this Act *shall* be *added* to Title 4 (Public Officers and Employees), Chapter 8 (Retirement of Public Employees), of the Guam Code Annotated, to create a "Defined Benefit 1.75 Retirement System" that is comprised of participation in the preexisting Retirement Fund and Deferred Compensation Program. Subsections A to E of this Section 2 are provided only as a convenient summary of the key provisions of the Defined Benefit 1.75 Retirement System, and are not meant to be codified in Chapter 8, Title 4 of the Guam Code Annotated.

A. Voluntary Participation in the Defined Benefit 1.75 Retirement System

(1) New Employees

With limited exceptions, new employees whose employment commences between April 1, 2017 and December 31, 2017, inclusive, may elect, during the "Election Window" commencing on April 1, 2017 and ending on December 31, 2017, to participate in the Defined Benefit 1.75 Retirement System effective as of January 1, 2018.

(2) Former Employees Who Are Reemployed

(a) Reemployed employees who have retired under government of Guam sponsored plans are prohibited from participating in the Defined Benefit 1.75 Retirement System. All reemployed employees who retired under the Defined Benefit Plan, the Defined Contribution Retirement System, or the Defined Benefit 1.75 Retirement System are required to participate in the Defined Contribution Retirement System.

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

(c) Reemployed employees (prior to January 1, 2018) with interests in the Defined Contribution Retirement System *shall* participate in the Defined Contribution Retirement System, unless such eligible employees timely elect to participate in the Defined Benefit 1.75 Retirement System (and in some cases, transfer their account balances) under the following circumstances:

i. Such eligible employees who are reemployed prior September 30, 2017, may, during the "Election Window" commencing on April 1, 2017 and ending on September 30, 2017 (October 31, 2017 for reemployment commencing during the month of September 2017) elect to participate in the Defined Benefit 1.75 Retirement System, and transfer the required portion of their Defined Contribution Retirement System account balances to the

Retirement Fund for credited service effective as of January 1, 2018.

ii. Such eligible employees who are reemployed between October 1, 2017 and December 31, 2017, inclusive, may, within thirty (30) days of their reemployment, elect to participate in the Defined Benefit 1.75 Retirement System effective as of January 1, 2018, but may not transfer their account balances in the Defined Contribution System to the Retirement Fund for credited service.

(3) Disabled Participants Receiving Ancillary Benefits Under Article 4

Disabled participants in the Defined Contribution Retirement System who are receiving pre-retirement disability benefits under Title 4, Chapter 8, Article 4 of the Guam Code Annotated prior to December 31, 2017, may, during the "Election Window" commencing on April 1, 2017 and ending on December 31, 2017, elect to participate in the Defined Benefit 1.75 Retirement System, and transfer their account balance in the Defined Contribution Retirement System to the Retirement Fund for credited service, to be effective upon the later of (A) January 1, 2018, or (B) termination of their disability benefits in connection with their retirement or their reemployment with the government of Guam.

(4) Current Employees

Employees participating in the Defined Contribution Retirement System on March 31, 2017 may, during the Election Window" commencing April 1, 2017 and ending on September 30, 2017, elect to

1 participate in the Defined Benefit 1.75 Retirement System, and transfer
2 the required portion of their Defined Contribution Retirement System
3 account balances to the Retirement Fund thereunder, effective as of
4 January 1, 2018. If the participant's account has been reduced by any
5 withdrawal, the participant may repay the withdrawn amounts, plus
6 interest, in order to reinstate full credited service under the Defined
7 Benefit 1.75 Retirement System.

8 **B. Employee Contributions**

9 (1) Mandatory pre-tax employee contributions equal to nine
10 and five tenths percent (9.5%) of the member's base salary *shall* be
11 made to the Retirement Fund and subject to the management and
12 administration of the Retirement Fund under Article 1, Chapter 8, Title
13 4, of the Guam Code Annotated.

14 (2) Mandatory pre-tax employee contributions equal to one
15 percent (1%) of the member's base salary *shall* be made to the Deferred
16 Compensation Program under Article 3, Chapter 8, Title 4 of the Guam
17 Code Annotated.

18 **C. Employer Contributions**

19 Employer contributions on behalf of members under the
20 Retirement Fund *shall* be in accordance with applicable contribution
21 requirements described in § 8137, Article 1, Chapter 8, Title 4 of the
22 Guam Code Annotated.

23 **D. Member Retirement Benefits**

24 (1) The Retirement Fund *shall* provide a retirement annuity in
25 an amount equal to one and seventy-five hundredths percent (1.75%)
26 of a member's average annual salary (the average of the highest three
27 (3) annual base salaries, and where non-base compensation is excluded)

for each year of credited service (subject to a minimum of One Thousand Two Hundred Dollars ($1,200) per year, and a maximum of eighty-five percent (85%) of average annual salary). The retirement annuity *shall* be subject to annual increase based on specified fixed dollar increments. A member *shall* be eligible to receive an unreduced retirement annuity at age sixty-two (62) (where the maximum benefit of eighty-five percent (85%) of average annual salary is achieved with forty-nine (49) years of credited service), and *shall* be eligible to receive a reduced retirement annuity at age fifty-five (55) and twenty-five (25) years of credited service (subject to a reduction of five tenths percent (.5%) per month for each month under age sixty-two (62)).

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

E. Survivor And Disability Benefits

(1) Under the Retirement Fund, surviving spouses *shall* be eligible for survivor benefits equal to sixty percent (60%) of a member's retirement annuity (minimum of One Thousand Two Hundred Dollars ($1,200) per year). Surviving minor children *shall* be eligible for surviving child benefits equal to Two Thousand Eight Hundred Eighty Dollars ($2,880) per child (up to Fourteen Thousand Four Hundred Dollars ($14,400) in the aggregate). An additional lump sum benefit of One Thousand Dollars ($1,000) also is available. The survivor annuity (but not annuity for surviving minor children) *shall* be subject to annual increase based on specified fixed dollar increments.

(2) Under the Retirement Fund, a member *shall* be eligible for a disability retirement annuity equal to fifty percent (50%) of the member's average annual salary. The disability annuity *shall* be subject to annual increase based on specified fixed dollar increments.

Section 3. Statutory Provisions Establishing Defined Benefit 1.75 Retirement System. A new Article 5 is hereby *added* to Chapter 8, Title 4 of the Guam Code Annotated, to read as follows:

"Article 5

Defined Benefit 1.75 Retirement System

"§ 8501. Definitions.

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

(a) *Actuarial Cost of Credited Service* means a percentage of historical base salary corresponding to the service for which a member's account is credited with employer contributions under the Defined Contribution Retirement System through the date preceding the member's transfer to the Defined Benefit 1.75 Retirement System. The applicable percentage *shall* be specified by the Board based on an actuarial review of the cost of credited service. The same percentage *shall* apply to all members.

(b) *Board of Trustees* or *Board* means the Board of Trustees of the government of Guam Retirement Fund, which is responsible for the direction and operation of the affairs and business of the Defined Benefit 1.75 Retirement System.

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

(d) *Deferred Compensation Program* means the government

of Guam Deferred Compensation Program established and operated in accordance with Article 3 of this Chapter and inclusive of modifications in the terms and conditions of the Deferred Compensation Program applicable to the members of the Defined Benefit 1.75 Retirement System under this Article 5.

(e) *Defined Contribution System* means the government of Guam Defined Contribution Retirement System established and operated in accordance with Article 2 of this Chapter and inclusive of modifications in the terms and conditions of the Defined Contribution Retirement System applicable to the members of the Defined Benefit 1.75 Retirement System under this Article 5.

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

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

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

(i) *Existing Retirement System* means the government of Guam Retirement Fund established and operated in accordance with

Article 1 of this Chapter and exclusive of modifications in the terms and conditions of the Existing Retirement System applicable to the members of the Defined Benefit 1.75 Retirement System under this Article 5.

(j) *Defined Benefit 1.75 Retirement System or DB 1.75 Plan* means the government of Guam Defined Benefit 1.75 Retirement System established and operated under this Article 5. The Defined Benefit 1.75 Retirement System *shall* consist of the mandated and coordinated participation of members in two separate and preexisting retirement programs:

(1) the Retirement Fund established and maintained under Article 1, Chapter 8, Title 4 of the Guam Code Annotated; inclusive of the modifications to the terms and conditions of the Retirement Fund for Defined Benefit 1.75 Plan members as set forth in this Article 5; and

(2) the Deferred Compensation Program established and maintained under Article 3, Chapter 8, Title 4 of the Guam Code Annotated.

(k) *Member or Defined Benefit 1.75 Plan member* means any person who meets the eligibility requirements for membership in the Defined Benefit 1.75 Retirement System as described in § 8502 and participates in the Defined Benefit 1.75 Retirement System.

(l) *Retirement Fund* means the government of Guam Retirement Fund established and operated in accordance with Article 1 of this Chapter and inclusive of the modifications in the terms and conditions of the Existing Retirement System applicable to members of the Defined Benefit 1.75 Retirement System under this Article 5.

§ 8502. Establishment of the Government of Guam Defined Benefit 1.75 Retirement System; Membership in DB 1.75 Retirement System.

(a) Defined Benefit 1.75 Retirement System. Beginning January 1, 2018, the government of Guam Defined Benefit 1.75 Retirement System *shall* be established hereunder and System *shall* be comprised of membership under the government of Guam Retirement Fund established under Article 1 of this Title and the Deferred Compensation Program established under Article 3 of this Title. The Defined Benefit 1.75 Retirement System does not comprise a separate fund or trust for members thereunder, but is the coordinated participation on a mandatory basis at specified benefit levels in the Retirement Fund and voluntary basis at specified benefit levels in the Deferred Compensation Program. Beginning January 1, 2018, the Defined Benefit 1.75 Retirement System *shall* be the retirement program for employees who timely elect to participate in the Defined Benefit 1.75 Retirement System. Members of the Defined Contribution System whose employment continues beyond December 31, 2017, *shall* continue to contribute to and participate in the Defined Contribution System without change in provisions or benefits, except as provided from time to time under the Defined Contribution System.

(b) Membership in Retirement Fund

(1) Defined Benefit 1.75 Plan Election by New Employees in Defined Contribution System. All new employees whose employment commences between April 1, 2017 and December 31, 2017, inclusive, and who satisfy the eligibility requirements for membership under §§ 8105 and 8106, may elect

1 to participate in the Retirement Fund as "Defined Benefit 1.75
2 Plan members" in accordance with such eligibility requirements.
3 No additional new employees *shall* be admitted to the Existing
4 Retirement System on or after January 1, 2018, except as
5 provided hereunder or provided from time to time under the
6 Existing Retirement System. Members of the Existing
7 Retirement System whose employment continues beyond
8 December 31, 2017, *shall* continue to contribute and participate
9 in the Existing Retirement System without change in provisions
10 or benefits, except as provided from time to time under the
11 Existing Retirement System. Except for those members who
12 elect to participate in the Defined Benefit 1.75 Retirement
13 System pursuant to § 8502(b)(2), any new employee hired after
14 January 1, 2018 and who elects to participate in the Defined
15 Contribution Retirement System and current members of the
16 Defined Contribution System whose employment continues
17 beyond December 31, 2017, *shall* continue to contribute and
18 participate in the Defined Contribution System without change
19 in provisions or benefits, except as provided from time to time
20 under the Defined Contribution System.
21 (2) Defined Benefit 1.75 Plan Election by Current
22 Employees in Defined Contribution System. All employees who
23 are members in the Defined Contribution System on March 31,
24 2017 *shall* be eligible to elect on a voluntary basis to become
25 Defined Benefit 1.75 Plan members effective as of January 1,
26 2018, and to terminate active participation in the Defined
27 Contribution System as of such date, by making the appropriate

election with the Defined Benefit 1.75 Retirement System in the form and manner as determined by the Board during the election period commencing on April 1, 2017 and ending on September 30, 2017. After having made such election to become a Defined Benefit 1.75 Plan member, the member may not change such election or again become an active member of the Defined Contribution System. The failure to make such election *shall* be deemed to constitute an election by the member to remain as an active member under the Defined Contribution System. Such election *shall* not apply to members in the Defined Contribution System who have retired or otherwise terminated employment from government service and who are not employed by the government of Guam at the time of the election and as of the January 1, 2018, effective date of participation in the Defined Benefit 1.75 Plan.

(3) Reemployment of Existing Retirement System Member. Any employee who is a member in the Existing Retirement System, who leaves government service and who is later reemployed after December 31, 2017 by the government of Guam, *shall* become an active member in the Existing Retirement System upon reemployment if such employee has not received a refund of contributions resulting in ineligibility for membership under § 8130(b), and if such employee otherwise meets the eligibility requirements under the Existing Retirement System.

(4) Reemployment of Defined Contribution System Member. Any employee who is a member maintaining an

interest in the Defined Contribution System, who leaves government service and who is later reemployed by the government of Guam prior to September 30, 2017, *shall* become an active member in the Defined Contribution System upon reemployment if such employee otherwise meets the eligibility requirements under the Defined Contribution System.

(A) However, if such a member is reemployed during the period commencing on April 1, 2017, and ending on September 30, 2017, then:

(i) the member *shall* be eligible to elect on a voluntary basis to become a member of the Defined Benefit 1.75 Plan if such member otherwise meets the eligibility requirements for membership under §§ 8105 and 8106;

(ii) the election period for this election *shall* be the period commencing on April 1, 2017, and ending on September 30, 2017 (or October 31, 2017 for members reemployed during the month of September 2017), and the effective date of the member's membership in the Defined Benefit 1.75 Plan *shall* be January 1, 2018; and

(iii) the member's account under the Defined Contribution System *shall* be subject to transfer to the Defined Benefit 1.75 Retirement System in accordance with §§ 8503(d)(2) and 8504.

(B) Further, if such a member is reemployed between October 1, 2017 and December 31, 2017, inclusive:

(i) the member *shall* be eligible to elect on a voluntary basis to become a member of the Defined Benefit 1.75 Plan if such member otherwise meets the eligibility requirements for membership under §§ 8105 and 8106;

(ii) the election period for such election *shall* be the thirty (30) day period beginning on the date of reemployment, and the effective date of the member's membership in the Defined Benefit 1.75 Plan *shall* be the date of reemployment; and

(iii) the member's account under the Defined Contribution System *shall* not be subject to transfer to the Retirement Fund.

(5) Reemployment of Defined Contribution System Member on Disability. Notwithstanding § 8502(b)(4), a member of the Defined Contribution System who had incurred a disability and at any time been eligible to receive any benefits provided under any long-term disability insurance policy issued pursuant to § 8213 or Article 4 of this Title *shall* not be eligible for membership under the Defined Benefit 1.75 Retirement System upon reemployment, but such member who satisfies the eligibility requirements for membership under §§ 8206 and 8207 at such time *shall* participate in the Defined Contribution System in accordance with such eligibility requirements. However, in

the case of a member of the Defined Contribution System who is receiving disability benefits under § 8213 or Article 4 of this Title on or before September 30, 2017, such member *shall* be eligible to elect on a voluntary basis to become a member of the Defined Benefit 1.75 Plan in the event of the member's reemployment or retirement on or after January 1, 2018. For this purpose, the election period for this election *shall* be the period commencing on April 1, 2017, and ending on September 30, 2017 (or October 31, 2017, for employees who commence receiving disability benefits during the month of September 2017), and the effective date of the member's membership in the Defined Benefit 1.75 Plan *shall* be the later of: (A) January 1, 2018, or (B) the date of the member's reemployment or retirement.

(6) Reemployment of government of Guam Retiree. Any employee who retired under the Existing Retirement System, the Defined Contribution System, or the Defined Benefit 1.75 Retirement System, *shall* participate in the Defined Contribution Plan upon reemployment.

(c) Membership in Deferred Compensation Program. Defined Benefit 1.75 Plan members *shall* participate in the Deferred Compensation Program effective as of the date on which they commence participation in the Retirement Fund.

(d) Membership in Welfare Benefit Plans. Defined Benefit 1.75 Plan members *shall* not be eligible to participate in the welfare benefit plans established and maintained under Article 4 of this Title. As such, members of the Defined Contribution System who elect to

become Defined Benefit 1.75 Plan members pursuant to § 8502(b) *shall* terminate participation in such welfare benefit plans effective as of the date on which they commence participation in the Defined Benefit 1.75 Retirement System.

(e) Applicability of Articles 1 through 3, Chapter 8. Except as otherwise provided hereunder, with respect to Defined Benefit 1.75 Plan members who participate in the Retirement Fund, Defined Contribution System, and Deferred Compensation Program in accordance with the Defined Benefit 1.75 Retirement System provisions under this Article 5, the provisions of Articles 1 through 3 of this Chapter 8, respectively, *shall* be applicable to Defined Benefit 1.75 Plan members in a manner no different than the application to members who are not Defined Benefit 1.75 Plan members.

§ 8503. Defined Benefit 1.75 Plan Member Basic Retirement Annuity

(a) Amount of Basic Retirement Annuity. Notwithstanding the otherwise applicable formula under § 8122 or other successor provision, the basic retirement annuity payable to a Defined Benefit 1.75 Plan member under the Retirement Fund *shall* be the following: an amount equal to one and seventy-five hundredths percent (1.75%) of average annual salary for each year of credited service; no basic retirement annuity *shall* exceed eighty-five percent (85%) of average annual salary; and the basic retirement annuity *shall* not, in any case, be less than One Thousand Two Hundred Dollars ($1,200) per year per member. For purposes of defining "salary" and "average annual salary" under § 8104(i) and (j), respectively, with respect to the determination of the basic retirement annuity payable to a Defined Benefit 1.75 Plan

member, the term "salary" *shall* mean the member's base salary excluding all non-base compensation.

(b) Automatic Increases in Annuity for Basic Retirement Annuity. Any Defined Benefit 1.75 Plan member receiving a basic retirement annuity under the Retirement Fund *shall* receive each year on the anniversary date of the member's retirement or entitlement, an automatic "sliding scale" increase in the member's annual annuity as applicable under the Retirement Fund pursuant to § 8122 or other successor provision.

(c) Retirement. Notwithstanding the otherwise applicable retirement requirements under §§ 8119 through 8120.1 or other successor provisions, a Defined Benefit 1.75 Plan member may retire on a service retirement annuity under the Retirement Fund, upon written application to and approval by the Board; provided that such member *shall* have attained at least sixty-two (62) years of age and has completed five (5) years of service. However, at the option of the Defined Benefit 1.75 Plan member, whether active or inactive, such member may retire after (1) attaining at least fifty-five (55) years of age and (2) completing twenty-five (25) years of service, in which case the retirement annuity for such member *shall* be reduced one half (1/2) of one percent (1%) for each month such member is under the age of sixty-two (62) years at such time of retirement, from the amount of the retirement annuity determined for such member as of his attainment of age sixty-two (62).

(d) Credited Service for Transfers from Defined Contribution System

(1) Transfer of Account to Defined Benefit 1.75 Retirement System. With respect to a member in the Defined Contribution System on March 31, 2017 who timely elects to be a member in the Defined Benefit 1.75 Retirement System effective as of January 1, 2018, in accordance with the election procedures under § 8502(b)(2), the member's account balance under the Defined Contribution System *shall* be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of January 1, 2018. Further, with respect to a member in the Defined Contribution System who is reemployed by the government of Guam during the period between April 1, 2017 and September 30, 2017, inclusive, and who becomes a member in the Defined Benefit 1.75 Retirement System effective as of January 1, 2018, in accordance with the election procedures under § 8502(b)(4), the member's account balance under the Defined Contribution System *shall* be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of January 1, 2018. Finally, with respect to a member in the Defined Contribution System who is receiving disability benefits and who becomes a member in the Defined Benefit 1.75 Retirement System upon reemployment or retirement in accordance with § 8502(b)(5), the member's account balance under the Defined Contribution System *shall* be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of the effective date of the member's membership in the Defined Benefit 1.75 Plan as described in § 8502(b)(5). In these cases, as of the effective date of the transfer

of a member's account from the Defined Contribution System to the Defined Benefit 1.75 Retirement System, such member's membership in the Defined Contribution System *shall* terminate. The transfer of a member's account from the Defined Contribution System to the Defined Benefit 1.75 Retirement System attributable to the transfer of Member Contributions pursuant to § 8208, and Member's Contribution Reserve and Transfer Incentive Reserve pursuant to § 8209.1(a) and (b), *shall* be made in accordance with § 8504. The transfer of a member's Employer Account to the Defined Benefit 1.75 Retirement System attributable to the transfer of Employer's Contributions pursuant to § 8209(a) (whether the account reflecting such employer contributions are vested or unvested, and inclusive of unvested suspense accounts) *shall* be pursuant to § 8503(d)(2). Any Ancillary Benefit Account maintained under the Defined Contribution System on behalf of the member as described in § 8201(n) *shall* not be subject to transfer.

(2) Defined Contribution System Credited Service. Effective as of the effective date of the transfer of the member's account from the Defined Contribution System to the Retirement Fund under this § 8503(d), the service for which the member's account is credited with employer contributions under the Defined Contribution System (including the service under the Retirement Fund attributable to the employee contributions previously transferred from the Retirement Fund to the Defined Contribution System pursuant to the member's election under § 8207), *shall* be credited to the member for purposes of

determining the member's years of credited service and basic retirement annuity under the Retirement Fund in accordance with § 8503. In connection with credited service transferred from the Defined Contribution System to the Retirement Fund under § 8503(d)(1), a member's § 8209(a) Employer's Contribution account (whether the account reflecting such employer contributions are vested or unvested, and inclusive of unvested suspense accounts) *shall* be transferred to the member's § 8164(b) account (Employer's Contribution Reserve) under the Retirement Fund.

(3) Credited Service for Repayment of Defined Contribution System Contributions. In the event that the Defined Benefit 1.75 Plan member's account under the Defined Contribution System was previously reduced by the member's withdrawal of an amount from the member's account that is attributable to contributions during the member's active participation in the Defined Contribution System, the member *shall* be allowed to repay to the Retirement Fund the amount of the withdrawal, adjusted for interest during the period commencing on the date of the withdrawal and ending on the date of the repayment, which repayment must be made in any combination of the following: a single payment, transfer of Excess Account Balance, or installments to the Retirement Fund in accordance with the Article 1 of Chapter 3, Division 1, Title 2 of the Guam Administrative Rules, as amended. If such withdrawn portion of the member's account is not timely repaid in full to the Retirement Fund, then the service that otherwise

would be credited under the Retirement Fund for service during the member's active participation in the Defined Contribution System *shall* be reduced to account for the service to which the withdrawal relates, in accordance with rules, regulations, and procedures as promulgated or approved by the Board.

(4) Credited Service for Repayment of Prior Retirement Fund Contributions. In the event that the member's account under the Defined Contribution System was previously reduced by the member's withdrawal of an amount from the member's account that is attributable to the prior transfer of employee contributions from the Retirement Fund to the Defined Contribution System (specifically, considering only the portion of the account derived from the transferred Member's Contribution Reserve, and not the Employer's Contribution Reserve) pursuant to the member's election under § 8207, the member *shall* be allowed to repay to the Retirement Fund the amount of the withdrawal, adjusted for interest during the period commencing on the date of the withdrawal and ending on the date of the repayment, which repayment must be made in any combination of the following: a single payment, transfer of Excess Account Balance, or installments to the Retirement Fund in accordance with the Article 1 of Chapter 3, Division 1, Title 2 of the Guam Administrative Rules, as amended. If such withdrawn portion of the member's account is not timely repaid in full to the Retirement Fund, then the service that otherwise would be credited under the Retirement Fund for service during the member's prior participation in the Retirement Fund *shall* be

reduced to account for the service to which the withdrawal relates in accordance with rules, regulations, and procedures as may be promulgated or approved by the Board.

§ 8504. Transfer of Member Accounts from Defined Contribution System; Transfer of Excess Account Balance, If Any.

(a) In connection with credited service transferred from the Defined Contribution Retirement System to the Retirement Fund under § 8503(d)(1), a member's Member Account balances in the Defined Contribution System *shall* be transferred to the Defined Benefit 1.75 Retirement System in accordance with this Section.

(b) An amount equal to the lesser of a member's:

(1) § 8208 and § 8209.1(a) account balances, if any; or

(2) actuarial cost of credited service, *shall* be transferred to the Defined Benefit 1.75 Retirement System as set forth in this § 8504(b). The actuarial cost of credited service for a member transferring to the Defined Benefit 1.75 Plan *shall* be funded first from the member's § 8209.1(a) account, if any, and applied to the member's § 8164(a) Member's Contribution Reserve; any further amounts needed to fund up to the actuarial cost of credited service *shall* be funded next from the member's § 8208 pre-tax account and applied to a pre-tax subaccount in the member's § 8164(a) Member's Contribution Reserve. Excess Account Balance, if any, attributable to a member's § 8209.1(a) account *shall* be transferred to the member's post-tax account in the Deferred Compensation Program, except for amounts designated by the member to be applied to repay prior partial withdrawals from the member's account in accordance with §

8503(d)(3). Excess Account Balance, if any, attributable to a member's § 8208 Member Contribution Account *shall* be transferred to the member's pre-tax account in the Deferred Compensation Program, except for amounts designated by the member to be applied to repay prior partial withdrawals from the member's account in accordance with § 8503(d)(3).

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

§ 8505. Defined Benefit 1.75 Plan Member Disability Retirement Annuity.

(a) Amount of Disability Retirement Annuity. Notwithstanding the otherwise applicable formula under § 8125 or other successor provision, the amount of basic disability retirement annuity for a Defined Benefit 1.75 Plan member under the Retirement Fund *shall* be fifty percent (50%) of average annual salary based on the average three (3) highest annual salaries received the member during that member's years of credited service. For purposes of defining "salary" and "average annual salary" under § 8104(i) and (j), respectively, with respect to the determination of the basic disability retirement annuity payable to a Defined Benefit 1.75 Plan member, the term "salary" *shall* mean the member's base salary excluding all non-base compensation.

(b) Automatic Increases in Annuity for Disability Retirement Annuity. Any Defined Benefit 1.75 Plan member receiving a recomputed disability retirement annuity under the Retirement Fund *shall* receive each year on the anniversary date of the member's retirement or entitlement, an automatic sliding scale increase in the member's annual basic disability retirement annuity as applicable under the Retirement Fund pursuant to § 8129 or other successor provision.

§ 8506. Defined Benefit 1.75 Plan Member Death and Survivors Benefits.

The death benefit and survivor annuity provisions in connection with a member's death under §§ 8131 through 8135 or other successor provisions *shall* be applicable to Defined Benefit 1.75 Plan members in a manner no different than the application to members who are not Defined Benefit 1.75 Plan members.

§ 8507. Defined Benefit 1.75 Plan Member Contributions to Fund.

The member contribution provisions under § 8136 or other successor provision *shall* be applicable to Defined Benefit 1.75 Plan members in a manner no different than the application to members who are not Defined Benefit 1.75 Plan members. However, notwithstanding that the contributions by Defined Benefit 1.75 Plan members are designated as member contributions and *shall* be administered as member contributions under § 8136, such contributions *shall* be on a mandatory basis deducted from the member's base salary and paid by the employer in lieu of contributions by the member, and *shall* constitute pre-tax "pick-up" employer contributions for purposes of determining the income tax treatment of such contributions under Section 414(h) of the United States Internal Revenue Code.

1 **§ 8508. Deferred Compensation Program.**

2 In accordance with § 8308, the employer *shall* automatically enroll
3 members and may deduct and credit Defined Benefit 1.75 Plan member
4 contributions under the Deferred Compensation Program in an amount equal
5 to one percent (1%) of the member's base salary. However, notwithstanding
6 that the contributions by Defined Benefit 1.75 Plan members are designated
7 and *shall* be administered as member contributions under § 8308, such
8 contributions *shall* be on a voluntary basis deducted from the member's base
9 salary and paid by the employer in lieu of contributions by the member, and
10 *shall* constitute pre-tax "pick-up" employer contributions for purposes of
11 determining the income tax treatment of such contributions under Section
12 414(h) of the United States Internal Revenue Code."

13 **Section 4. Rules and Regulations.** *No later than* March 31, 2017, the
14 Board of Trustees of the Retirement Fund *shall* approve such plan documents, rules,
15 regulations, administrative procedures and forms that it may deem necessary and
16 appropriate to implement the Defined Benefit 1.75 Retirement System established
17 by this Section.

18 **Section 5. Framework for the Creation, Approval, and Adoption of a**
19 **Cash Balance Plan to be known as the Guam Retirement Security Plan (GRSP).**
20 *No later than* March 31, 2017, the Board of Trustees of the Retirement Fund *shall*
21 create, approve, and adopt a Cash Balance Plan to be known as the Guam Retirement
22 Security Plan (GRSP), plan documents, rules, regulations, administrative
23 procedures, and forms that it may deem necessary and appropriate to implement the
24 GRSP pursuant to the Administrative Adjudication Act in accordance with the
25 following provisions:

26 (1) Membership in Guam Retirement Security Plan.

(a) Guam Retirement Security Plan. Upon creation, approval, and adoption of a GRSP by the Board of Trustees of the Retirement Fund and beginning on or after April 1, 2017, the government of Guam GRSP *shall* be established in accordance with the regulations created, adopted, and approved by the Board of Trustees of the Retirement Fund and *shall* be the single retirement program for all new employees whose employment commences on or after December 31, 2017, unless such employee elects to participate in the Defined Contribution Retirement System within sixty (60) days of the employee's hire date. Members of the Defined Contribution System whose employment continues beyond June 30, 2017 *shall* continue to contribute to and participate in the Defined Contribution System without change in provisions or benefits, except for members who elect to become GRSP members or as provided from time to time under the Defined Contribution System.

(b) Membership in Guam Retirement Security Plan.

(i) New Employees. All new employees whose employment commences between April 1, 2017 and December 31, 2017, and who satisfy the eligibility requirements for membership in accordance with the GRSP regulations as created, approved, and adopted by the Board of Trustees of the Retirement Fund, may participate in the Retirement Fund as GRSP members in accordance with such eligibility requirements. Beginning January 1, 2018, all new employees whose employment commences on or after January 1, 2018 are automatically enrolled in the GRSP retirement program unless the employee elects to participate in the Defined Contribution System within sixty (60) days from the employee's date of hire.

New employees electing to participate in the Defined Contribution Retirement System *shall* contribute to and participate in the Defined Contribution Retirement System as provided in Article 2 of Title 4, Guam Code Annotated. No additional new employees *shall* be admitted to the Existing Retirement System on or after December 31, 2017, except as provided from time to time under the Existing Retirement System. Members of the Existing Retirement System whose employment continues beyond December 31, 2017, *shall* continue to contribute and participate in the Existing Retirement System without change in provision or benefits, except as provided from time to time under the Existing Retirement System. Members of the Defined Contribution System whose employment continues beyond December 31, 2017, *shall* continue to contribute and participate in the Defined Contribution System without change in provisions or benefits, except as provided from time to time under the Defined Contribution System.

(ii) Guam Retirement Security Plan Election by Current Employees in Defined Contribution System. All employees who are members in the Defined Contribution System on March 31, 2017, *shall* be eligible to elect on a voluntary basis to become GRSP members effective as of January 1, 2018, and to terminate active participation in the Defined Contribution System as of such date, by making the appropriate election with the GRSP in the form and manner as determined by the Board during the election period commencing on April 1, 2017 and ending on

September 30, 2017. After having made such election to become a GRSP member, the member may not change such election or again become an active member of the Defined Contribution System. The failure to make such election *shall* be deemed to constitute an election by the member to remain as an active member under the Defined Contribution System or the Defined Benefit 1.75 Retirement System. Such election *shall* not apply to members in the Defined Contribution System who have retired or otherwise terminated employment from government service and who are not employed by the government of Guam at the time of the election and as of the January 1, 2018, effective date of participation in the GRSP.

(iii) Reemployment of Existing Retirement System Member. Any employee who is a member in the Existing Retirement System, who leaves government service and who is later reemployed prior to December 31, 2017 by the government of Guam, *shall* become an active member in the Existing Retirement System upon reemployment if such employee has not received a refund of contributions resulting in ineligibility for membership under § 8130(b), and if such employee otherwise meets the eligibility requirements under the Existing Retirement System. However, if such employee has received a refund of contributions under § 8130, and if such employee otherwise meets the eligibility requirements for membership, then such employee *shall* become an active member in the GRSP upon reemployment.

(iv) Reemployment of Defined Contribution System Member. Any employee who is a member maintaining an interest in the Defined Contribution System, who leaves government service and who is later reemployed prior to September 30, 2017, by the government of Guam, *shall* become an active member in the Defined Contribution System upon reemployment if such employee otherwise meets the eligibility requirements under the Defined Contribution System.

(A) However, if such a member is reemployed during the period commencing on April 1, 2017, and ending on September 30, 2017, then:

(aa) the member *shall* be eligible to elect on a voluntary basis to become a member of the GRSP if such member otherwise meets the eligibility requirements for membership;

(bb) the election period for this election *shall* be the period commencing on April 1, 2017, and ending on September 30, 2017 (or October 31, 2017, for members reemployed during the month of September 2017), and the effective date of the member's membership in the Defined Benefit 1.75 Retirement System *shall* be January 1, 2018; and

(cc) the member's account under the Defined Contribution System *shall* be subject to transfer to the GRSP in accordance with the regulations created, approved, and adopted by the Board of Trustees of the Retirement Fund.

(B) Further, if such a member is reemployed after September 30, 2017:

(aa) the member *shall* be eligible to elect on a voluntary basis to become a member of the GRSP if such member otherwise meets the eligibility requirements for membership;

(bb) the election period for such election *shall* be the thirty (30) day period beginning on the date of reemployment, and the effective date of the member's membership in the GRSP *shall* be the later of January 1, 2018 or the date of reemployment; and

(cc) the member's account under the Defined Contribution System *shall not* be subject to transfer to the Retirement Fund.

(v) Reemployment of Defined Contribution System Member on Disability. Notwithstanding the above Section 1(b)(ii), a member of the Defined Contribution System who had incurred a disability and at any time been eligible to receive any benefits provided under any long-term disability insurance policy issued pursuant to § 8213 or Article 4 of this Title *shall* not be eligible for membership under the GRSP upon reemployment, but such member who satisfies the eligibility requirements for membership under §§ 8206 and 8207 at such time *shall* participate in the Defined Contribution System in accordance with such eligibility requirements. However, in the case of a member of the Defined Contribution System who is

receiving disability benefits under § 8213 or Article 4 of Title 4 of the Guam Code Annotated during the period commencing April 1, 2017, and ending on September 30, 2017, such member *shall* be eligible to elect on a voluntary basis to become a member of the GRSP in the event of the member's reemployment or retirement on or after January 1, 2018. For this purpose, the election period for this election *shall* be the period commencing on April 1, 2017, and ending on September 30, 2017 (or October 31, 2017, for members who commence receiving disability benefits during the month of September 2017), and the effective date of the member's membership in the GRSP *shall* be the later of:

(A) January 1, 2018, or

(B) the date of the member's reemployment or retirement.

(vi) Reemployment of government of Guam Retiree. Any employee who retired under the Existing Retirement System, the Defined Contribution System, the Defined Benefit 1.75 Retirement System, or the GRSP *shall* participate in the Defined Contribution Plan upon reemployment.

(2) Guam Retirement Security Plan Member Framework.

(a) GRSP Member Contributions to Fund. All contributions by GRSP members *shall* be mandatory and equal to six and two tenths percent (6.2%) of base pay. Such reductions from base pay, although designated as member contributions, *shall* be deducted by the employer at the normal payroll intervals, *shall* be paid by the employer in lieu of contributions by the member, and *shall* be remitted within five (5)

working days to the Retirement Fund. The employer *shall* deduct the member's mandatory contributions required by this Section from member's base pay on or after the first payroll interval following the latest of (i) the enactment of this Act, (ii) January 1, 2017, or (iii) a GRSP member's transfer to the GRSP pursuant to the created, approved, and adopted regulations by the Board of Trustees of the Retirement Fund and contributions so deducted *shall* be treated as employer contributions in determining federal tax treatment under Section 414(h) of the United States Internal Revenue Code. The employer *shall* contribute or pay these member deducted contributions from the same source of funds that is used in paying base pay to the member. Member contributions deducted *shall* be treated for all purposes of the government of Guam Retirement Fund GRSP in the same manner and to the same extent as member contributions made prior to the date of deduction. All member contributions *shall* be immediately credited to member GRSP accounts pursuant to the created, adopted, and approved GRSP regulations by the Board of Trustees of the Retirement Fund.

(b) Guam Retirement Security Plan Employer Contribution and Pay Credits. Each employer *shall*, pursuant to Section 5(2)(a), make a contribution to each GRSP member's account pursuant to the created, adopted, and approved GRSP regulations by the Board of Trustees of the Retirement Fund that is equal to six and two tenths percent (6.2%) of such member's base pay. In addition, each participating employer *shall* match the first six and two tenths percent (6.2%) of each member's base pay, which *shall* be known as a "pay credit," and *shall* be paid to the Fund and credited to such member's

GRSP account. Each participating employer *shall* ensure that its employer or member contributions are made within five (5) working days. In the case of an officer or an employee of the government of Guam, any unpaid employer contribution *shall* be a government debt, contracted as a result of a casual deficit in the government's revenues, to be accorded preferred status over other expenditures.

(c) Interest Credit.

(i) The GRSP *shall* include a fixed "interest credit" of four percent (4%) annually toward GRSP member accounts, and such interest credit requirements *shall* be in accordance with the Internal Revenue Code requirements for a Cash Balance Plan to be a qualified retirement plan.

(ii) The GRSP *shall* permit gains in excess of the "interest credit" of four percent (4%) to offset losses, in accordance with the Internal Revenue Code for requirements for a Cash Balance Plan to be a qualified retirement plan.

(d) Rollover Authorization. The Board of Trustees of the Retirement Fund *shall* include a roll over authorization for GRSP member and employer contributions to either the GRSP or the Deferred Compensation account in the creation, adoption, and approval of such regulations. Such rollover authorization *shall* be in accordance with the Internal Revenue Code requirements for a Cash Balance Plan to be a qualified retirement plan.

(e) Vesting Schedule. The Board of Trustees of the Retirement Fund *shall* include a vesting schedule that details vesting for contributions, to include but not be limited to members and employers contributions and interest credits. Such vesting schedule

shall be in accordance with the Internal Revenue Code requirements for a Cash Balance Plan to be a qualified retirement plan.

(3) The Board of Trustees of the Retirement Fund *shall* be authorized to ensure that any GRSP membership and framework requirements identified in this Section *shall* be subject to change at the Board's discretion, *only* if such membership and framework requirements do not conform to Internal Revenue Service regulations for Cash Balance Plan qualifications.

Section 6. Social Security Option. If the government of Guam is authorized to extend Social Security coverage to government of Guam employees on a prospective basis, whether through one (1) or several voluntary agreements or through a specific statutory provision authorizing such extension, then all employees hired on or after the effective date or dates from which such coverage is extended *shall* be enrolled into Social Security and *shall* not be eligible for the Defined Benefit 1.75 Retirement System or the Guam Retirement Security Plan.

Section 7. § 8208 of Article 2, Chapter 8, Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 8208. Members' Contributions.**

All contributions by the members *shall* be mandatory. From the operative date through December 31, 2017, contributions *shall* be equal to five percent (5%) of base pay. On and after January 1, 2018, contributions *shall* be equal to six and two tenths percent (6.2%) of base pay. Such reductions from base pay, although designated as member contributions, *shall* be deducted by the employer at the normal payroll intervals, *shall* be paid by the employer in lieu of contributions by the member, and *shall* be remitted within five working days to the insurance, annuity, mutual fund, or other qualified company or companies designated by the board to administer the operations of the Defined Contribution Retirement System. The employer

shall deduct the member's mandatory contributions required by this Section from member's base pay on or after the first payroll interval following the latest of (i) the enactment of this Article (ii) October 1, 1995, or (iii) a member's transfer to the Defined Contribution Retirement System pursuant to § 8207, and the contributions so deducted *shall* be treated as employer contributions in determining federal tax treatment under Section 414 (h) of the United States Internal Revenue Code. The employer *shall* contribute or pay these member deducted contributions from the same source of funds which is used in paying base pay to the member. Member contributions deducted *shall* be treated for all purposes of the government of Guam Retirement Fund Defined Contribution Retirement System in the same manner and to the same extent as member contributions made prior to the date of deduction. All member contributions *shall* be immediately credited to an account or accounts established for the benefit of the member under a trust agreement. A summary plan description *shall* be issued to each member setting forth the terms and conditions under which contributions are received, and the investment and retirement options available to the member. The board *shall* promulgate within ninety (90) days after enactment of the law, pursuant to § 8205 of this Article, rules defining the minimum requirements for the investment and retirement options, including but not limited to:

1. Lump sum distributions of members' accounts which do not exceed an amount established by the board;
2. Joint and Survivor annuities;
3. Other annuity forms;
4. Variable annuities which gradually increase monthly retirement payments; provided, that said increased payments are funded solely by existing current value of the member's account at the time the

member's retirement payments commence and not, to any extent, in a manner which would require additional employer or member contributions to any member's account after retirement or after the cessation of employment; and

5. The instances in which, if any, distributions or loans can be made from this on account balances prior to having attained the age of fifty-five."

Section 8. § 8209(a) of Article 2, Chapter 8, Title 4, Guam Code Annotated is hereby *amended* to read:

"**§ 8209. Employer Contributions.**

(a) Each employer *shall*, pursuant to § 8208, make a contribution to each member's account with respect to each member whose employment commenced on or after October 1, 1995, or who transfers to the Defined Contribution Retirement System pursuant to § 8207, which is equal to five percent (5%) of such member's base pay. In addition, each participating employer *shall* match the first five percent (5%) of each member's base pay. On and after January 1, 2018, these contributions herein *shall* be increased to six and two tenths percent (6.2%) of such member's base pay.

The amounts contributed herein *shall* vest in accordance with the vesting schedule set forth in of § 8210(c)."

Section 9. Extension of Amortization Period

(a) The first sentence of § 8137(b)of Article 1, Chapter 8, Title 4, Guam Code Annotated is hereby *amended* to read:

"(b) Government Unfunded, Liability Amortization Cost. An amount resulting from the application of a rate percent of total salaries

of all members which will amortize the remaining liability for prior service over a period of eighty-two (82) years following May 1, 1951."

(b) This Section 9 *shall* be effective January 1, 2018."

Section 10. Effective Date. Except as otherwise provided herein, this Act *shall* take effect upon enactment.

Section 11. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this Act that can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are severable.