

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session

Bill No. 295 (C)

Introduced by:

Mark Forbes

AN ACT TO AMEND SECTION 8158, ARTICLE 1, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE BOARD OF TRUSTEES TO INVEST UP TO THIRTY PERCENT (30%) OF RETIREMENT FUND ASSETS AT COST IN INVESTMENT FUNDS SUCH AS INVESTMENT TRUSTS, MUTUAL FUNDS, COMMON TRUST FUNDS AND COMMINGLED FUNDS.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the statutory restrictions governing investment of funds held in trust for
4 benefit of Defined Benefit Plan members and beneficiaries effectively exclude
5 investments in lower cost investment vehicles such as passively-managed
6 index funds. *I Liheslaturan Guåhan* further finds that institutional investments
7 in common trust funds and commingled funds often have lower costs than
8 investments in mutual fund vehicles, with lower or little added risk.

1 *I Liheslaturan Guåhan* therefore intends to authorize the Trustees of the
2 Defined Benefit Plan to exercise their discretion to invest up to thirty percent
3 (30%) of Retirement Fund assets at cost in investments held in lower-cost
4 investment vehicles, providing the additional opportunity to improve the
5 overall risk/return of the investment portfolio for the benefit of the Retirement
6 Fund as a whole. *I Liheslaturan Guåhan* further intends that the thirty percent
7 (30%) quantitative limitation is to pertain solely to those investment vehicles
8 described in Section 8158 (investment funds) and is not intended to apply to,
9 or impose further limits on, any of the other quantitative limitations in the
10 Defined Benefit Plan statute pertaining to direct investments in specific asset
11 classes such as common or capital stock, preferred stock, or bonds.
12 Conversely, none of the quantitative limitations (e.g., maximum percentage
13 investments) or qualitative requirements (e.g., dividend payout requirements)
14 expressly applicable to direct investments in common or capital stock,
15 preferred stock, or bonds are intended to apply to, or impose further limits on,
16 the quantitative limitations (thirty percent (30%) maximum) or qualitative
17 requirements for assets held in the investment fund vehicles described in
18 Section 8158.

19 **SECTION 2. Section 8158, Article 1, Chapter 8, Title 4 of the Guam**
20 **Code Annotated is amended to read:**

21 **§ 8158. Investment Funds.** (a) Common or capital shares of any
22 investment trust or mutual fund registered with the Securities and Exchange

1 Commission under the Investment Company Act of 1940, as from time to time
2 amended, provided that the cost of the shares acquired is no greater than their
3 net asset value on the date of acquisition.

4 (b) Units in any common trust fund or commingled fund maintained
5 at a custodian meeting the requirements of §8144 (Custodian) and advised or
6 sub-advised by an investment management organization meeting the
7 requirements of §8145 (Investment Agent).

8 (bc) Preferred shares of any investment trust or mutual fund registered
9 with the Securities and Exchange Commission under the Investment
10 Company Act of 1940, as from time to time amended, provided that:

11 (1) The number of issued and outstanding common or capital
12 shares multiplied by their asset value per share, plus;

13 (2) The number of issued and outstanding preferred shares
14 multiplied by their par or stated value, is at least fifty percent (50%)
15 greater than the number of issued and out-standing preferred shares
16 multiplied by their par or stated value. For purposes of this Section, the
17 number of issued and outstanding shares shall be taken as of the latest
18 available public report of such investment trust or mutual fund.
19 Preferred shares as described in this Subsection shall not be subject to
20 the provisions of §8156.

21 (ed) The term "net asset value" as used in this Section shall mean the
22 total quoted or estimated market value of all securities or other assets owned,

1 less that total of all determinable liabilities, as reported by such common trust
2 fund, commingled fund, investment trust or mutual fund.

3 (de) Limitation:

4 (1) The investment in units, preferred, common and capital stock
5 of any one common trust fund, commingled fund, investment trust or
6 mutual fund shall not exceed five percent (5%) of the Fund at cost; and

7 (2) The aggregate of all investments under this Section shall not
8 exceed ~~ten~~ thirty percent (~~40~~30%) of the Fund at cost.

9 **SECTION 3. Effective Date.** The provisions contained within this
10 Chapter shall become effective upon enactment.

11 **SECTION 4. Severability.** If any provision of this Act or its
12 application to any person or circumstances is held invalid, the invalidity shall
13 not affect other provisions or applications of this Act which can be given effect
14 without the invalid provision or application, and to this end the provisions of
15 this Act are severable.

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