



Territory of Guam
Territorio de Guam

OFFICE OF THE GOVERNOR
L'FISINAN I MAGA'LAHI
AGANA, GUAM 96910 U.S.A.

RECEIVED
OFFICE OF THE SPEAKER
DATE: 3/29/93
TIME: 4:00 PM
RECD BY: [Signature]

RECEIVED
LEGISLATIVE COUNSEL

MAR 29 1993
[Signature]

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 3 which I have signed into law this date as
Public Law 22-06.

Sincerely yours,

[Signature]
JOSEPH F. ADA
Governor of Guam

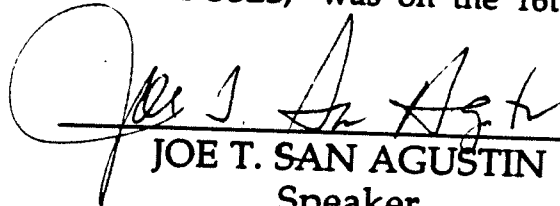
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Attachment

TWENTY-SECOND GUAM LEGISLATURE
1993 (FIRST) Regular Session

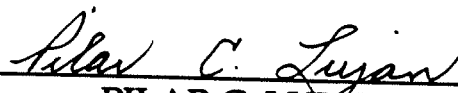
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Bill No. 3 (LS), "AN ACT TO AMEND SUBSECTION (a) OF §8136, §§8146, 8154, 8156, AND 8137, AND TO REPEAL AND REENACT §§8151 AND 8157, ALL OF CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM RETIREMENT FUND INVESTMENTS AND GOVERNMENT AND EMPLOYEE CONTRIBUTIONS TO THE FUND, AND TO APPROPRIATE TWO MILLION FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,575,000) TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF PAYING GOVERNMENT OF GUAM RETIREMENT FUND CONTRIBUTIONS ONLY, AND FOR OTHER PURPOSES," was on the 16th day of March, 1993, duly and regularly passed.



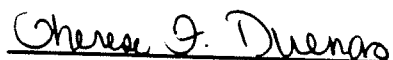
JOE T. SAN AGUSTIN
Speaker

Attested:



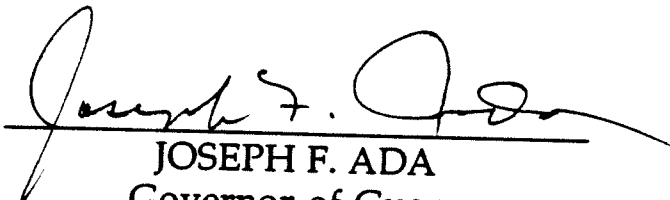
PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 17th day of March
1993, at 4:30 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



JOSEPH F. ADA
Governor of Guam

Date: MAR 29 1993

Public Law No. 22-06

TWENTY-FIRST GUAM LEGISLATURE
1992 (SECOND) Regular Session

Bill No. 3 (LS)

As amended by the
Committee on Ways and Means

Introduced by:

C.T.C. Gutierrez
T. S. Nelson
M. D. A. Manibusan

AN ACT TO AMEND SUBSECTION (a) OF §8136, §§8146, 8154, 8156, AND 8137, AND TO REPEAL AND REENACT §§8151 AND 8157, ALL OF CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM RETIREMENT FUND INVESTMENTS AND GOVERNMENT AND EMPLOYEE CONTRIBUTIONS TO THE FUND, AND TO APPROPRIATE TWO MILLION FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,575,000) TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF PAYING GOVERNMENT OF GUAM RETIREMENT FUND CONTRIBUTIONS ONLY, AND FOR OTHER PURPOSES.

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

2 Section 1. §8146 of Chapter 8 of Title 4, Guam Code Annotated, is
3 amended to read:

4 "§8146. General Investment Limitations. No investment shall
5 be made if, after such investment, the Fund would own:

6 (a) Any combination of obligations of any one political
7 subdivision, corporation or other single issuing entity in excess of five
8 percent (5%) of Fund assets at cost. This limitation shall not apply to
9 general obligations of the United States or the territory of Guam.

10 (b) Any combination of investment instruments as covered by
11 Section 8151, Subsection (b) of §8154, Subsection (b) of §8156, and

1 Subsection (b) of §8157 in excess of Fifteen Percent (15%) of Fund
2 assets at cost.

3 (c) Obligations or other investments issued or guaranteed by the
4 territory of Guam in excess of Ten Percent (10%) of Fund assets at cost,
5 provided however, that this limitation shall not apply to such
6 obligations or other investments that are unconditionally guaranteed
7 as to principal and interest by, or supported by lease assignment from,
8 another entity whose principal business is outside of said Territory and
9 whose obligations are authorized investments under §§8143 through
10 8159, inclusive.

11 Section 2. §8151 of Chapter 8 of Title 4, Guam Code Annotated, is
12 repealed and reenacted to read:

13 **“§8151. Same: Bonds Issued by National Governments Other**
14 **Than The United States.** Bonds and other evidences of indebtedness
15 which are direct obligations of, or secured by, the full faith and credit
16 of national governments other than the United States, where there
17 exists the power to levy taxes for the prompt payment of the
18 principal and interest of such bonds or evidences of indebtedness,
19 provided that:

20 (a) The issuer shall not be in default in the payment of
21 principal or interest on any bonds or other evidences of indebtedness;
22 and

23 (b) The Investment Agent determines that such an investment
24 would be employed by a prudent man acting in a like capacity and
25 familiar with such matters would use in the investment of a fund
26 with like character and with like aims; and

1 (c) No investment shall be made in any one (1) issue described
2 in this Section in an amount in excess of ten percent (10%) of such
3 issues."

4 Section 3. §8154 of Chapter 8 of Title 4, Guam Code Annotated, is
5 amended to read:

6 "§8154. Same: Bonds of Domestic and Foreign
7 Corporations. (a) Domestic Corporations. Bonds, debentures,
8 notes and other evidences of indebtedness of any corporation or
9 corporations created or existing under the laws of the United States,
10 or of any of the states or territories of the United States or the
11 District of Columbia which are not in default either as to principal or
12 interest, provided that:

13 (1) Such bonds or other evidences of indebtedness are
14 rated within the four (4) highest categories by two (2) nationally
15 recognized and published rating services which have been
16 approved by the Board and the Investment Agent; or

17 (2) In case such bonds or other evidence of indebtedness
18 are not so rated by two (2) such services, the net earnings
19 available for fixed charges over a prior of five (5) fiscal years
20 next preceding the date of investment have averaged per year
21 and during either of the last two (2) years have been, after
22 depreciation and after taxes, not less than:

23 (a) Two (2) times its average annual fixed charges over
24 the same period, in the case of any public utility company;

25 (b) One and one-half (1-1/2) times its average annual
26 fixed charges over the same period, in the case of any finance
27 company; or

1 (c) Three (3) times its average annual fixed charges over
2 the same period, in the case of any other company.

3 (3) No more than Two Percent (2%) of the Fund at cost
4 shall be invested in the obligations of any one (1) domestic
5 corporation or other single domestic issuing entity described in
6 this Subsection.

7 (b) **Foreign Corporations.** Bonds, debentures, notes and other
8 evidences of indebtedness of any corporation or corporations created
9 or existing under the laws of nations other than the United States
10 which are not in default either as to principal or interest, provide
11 that the Investment Agent in its informed opinion, determines that
12 such an investment would be employed by a prudent man acting in a
13 like capacity and familiar with such matters would use in the
14 investment of a fund of like character and with like aims. No more
15 than One and One- Half Percent (1-1/2%) of the Fund at cost shall be
16 invested in the obligations of any one (1) foreign corporation or other
17 single issuing foreign entity described in this Subsection.

18 (c) No investment shall be made in any one (1) issue described
19 in this Section in an amount in excess of Ten Percent (10%) of such
20 issues."

21 **Section 4.** §8156 of Chapter 8 of Title 4, Guam Code Annotated, is
22 amended to read:

23 "§8156. **Same: Domestic and Foreign Preferred Stock.** (a)
24 **Domestic Preferred Stock.** Domestic preferred or guaranteed stock
25 or shares of any institution created or existing under the laws of the
26 United States or of any state, district or territory thereof or the
27 District of Columbia, provided that:

1 (1) All publicly held prior obligations and prior preferred stock,
2 if any, of such institution at the date of acquisition are eligible as
3 investments under §§8143 through 8160; and

4 (2) The net earnings of the institution available for fixed
5 charges over a period of five (5) fiscal years next preceding the date
6 of investment have averaged per year, and during either of the last
7 two (2) years have been, after depreciation and after income taxes.
8 no less than:

9 (i) Two (2) times its average annual fixed charges,
10 maximum contingent interest and preferred dividend
11 requirements over the same period, in the case of any public
12 utility company; or

13 (ii) Three (3) times its average annual fixed charges,
14 maximum contingent interest and preferred dividend
15 requirements over the same period, in the case of any other
16 company.

17 For purposes of this Subsection, the term 'preferred dividend
18 requirements' shall mean cumulative and noncumulative dividends
19 on all preferred stock of the issuer, whether paid or not.

20 (b) **Foreign Preferred Stock.** Foreign preferred or guaranteed
21 stock or shares of any institution created or existing under the laws
22 of nations other than the United States which are not in default
23 either as to principal or interest, provided that the Investment Agent
24 in its informed opinion, determines that such an investment would be
25 employed by a prudent man acting in a like capacity and familiar
26 with such matters would use in the investment of a fund of like
27 character and with like aims.

1 (c) Limitations:

2 (1) No investment shall be made in any one issue
3 described in Item (1) of Subsection (a) of this Section in an
4 amount in excess of ten percent (10%) of such issues.

5 (2) No more than two percent (2%) of the Fund at cost
6 shall be invested in the preferred stock of any one issuing
7 domestic company.

8 (3) No more than two percent (2%) of the Fund at cost
9 shall be invested in the preferred stock of any one issuing
10 foreign company.

11 (4) The aggregate of all investments authorized under
12 this Section shall not exceed fifteen percent (15%) of Fund
13 Assets at cost."

14 Section 5. §8157 of Chapter 8 of Title 4, Guam Code Annotated, is
15 repealed and reenacted to read:

16 "§8157. Same; Common Stock. (a) Common or capital stock
17 of any institution or entity created or existing under the laws of the
18 United States or any state, district, or territory thereof, or the
19 District of Columbia. No more than Five Percent (5%) of the Fund
20 shall be invested in the common or capital stock of any one issuing
21 domestic company described in this Section.

22 (b) Common or capital stock of any institution or entity
23 created or existing under the laws of nations other than the United
24 States provided that the Investment Agent determines that such an
25 investment would be employed by a prudent man acting in a like
26 capacity and familiar with such matters would use in the investment
27 of a fund with like character and with like aims. No more than One

1 and One-Half Percent (1-1/2%) of the Fund at cost shall be invested
2 in the common or capital stock of any one issuing foreign company
3 described in this Section.

4 (c) No investment shall be made in any one (1) issue described
5 in this Section in an amount in excess of ten percent (10%) of such
6 issues.

7 (d) The aggregate of all investments under this Section shall
8 not exceed fifty percent (50%) of the Fund at cost."

9 Section 6. Subsection (a) of §8136 of Title 4 of the Guam Code
10 Annotated is amended, to read:

11 "Base Pay. Each member of the Fund shall contribute the
12 following:

13 (1) Six percent (6%) of salary earned and accruing to
14 such member from the operative date to July 1, 1973;

15 (2) Six and one-half percent (6.5%) of salary earned and
16 accruing to such member subsequent to July 1, 1973;

17 (3) Seven and one-half percent (7.5%) of the base pay
18 earned and accruing to such member subsequent to October 1,
19 1981;

20 (4) Eight and one-half percent (8.5%) of the base pay
21 earned and accruing to such member to be effective on the first
22 full pay period after the date of enactment of this Section,
23 which enactment date is subsequent to October 1, 1992;

24 (5) Nine and one-half percent (9.5%) of the base pay
25 earned and accruing to such member subsequent to October 1,
26 1993."

1 **Section 7.** Section 6 of this Act denies the right of any new member of
2 the Retirement Fund to make contributions on account of their non-base pay.
3 All members of the Fund who have previously elected to make such
4 contributions may continue to do so except that the contribution rate shall be
5 eight and one-half percent (8 1/2%) for the period following enactment of this
6 Act to the first full pay period, nine and one half percent (9 1/2%) for the
7 period from the beginning of such first full pay period through September 30,
8 1993, and ten and one half percent (10 1/2%) thereafter.

9 **Section 8.** §8137 of Title 4 of the Guam Code Annotated, is amended to
10 read:

11 “§8137. **Contribution by the Government.** The Government
12 shall make contributions to the Fund each year on an actuarial
13 funded basis, toward the annuities and benefits herein provided.
14 These contributions shall be equal to the sum of the following:

15 (a) **Government Normal Cost.** An annual amount resulting
16 from the application of a rate percent of total salaries of all members
17 representing the present value of the actuarial reserve requirement
18 for membership service, for such year, for service retirement annuity,
19 disability retirement annuity, and annuities to widows and children,
20 and the one-year term premium for the Government's liability for
21 death benefits, after taking credit for the contributions. From July 1,
22 1955 to August 30, 1972, the rate of contributions shall be seven and
23 two hundred eighty-seven thousandths percent (7.287%) of the total
24 salaries of the members participating in the Fund. From September
25 1, 1972, the rate of contribution shall be seven and six hundred
26 ninety-seven thousandths percent (7.697%) of the total salaries of the
27 members participating in the Fund. From July 1, 1976, the rate of

1 contribution shall be eight and six hundred ninety-seven thousandths
2 percent (8.697%) of the total salaries of the members participating in
3 the Fund. From October 1, 1981, the rate of contribution shall be ten
4 and six hundred ninety-nine thousandths percent (10.699%) of the
5 total base pay of the members participating in the Fund and ten and
6 six hundred ninety-nine thousandths percent (10.699%) of the pay for
7 which members opted to contribute eight and one-half percent (8.5%)
8 as provided in Section 7 of this Act. From the beginning of the first
9 full pay period following the beginning of the 1992 fiscal year, the
10 rate of contribution shall be six and ten-thousandths percent
11 (6.010%) with respect to both pay and non-base pay for which
12 members opted to contribute as provided in Section 7 of this Act.
13 From October 1, 1993, the rate of contribution with respect to both
14 base pay and the pay for which members opted to contribute as
15 provided in Section 7 of this Act shall be equal to the Government
16 Normal Cost rate percent determined in the latest completed
17 actuarial valuation prepared for the Board of Trustees by the
18 actuary appointed by the Board.

19 (b) **Government Unfunded Liability Amortization Cost.** An
20 amount resulting from the application of a rate percent of total
21 salaries of all members which will amortize the remaining liability
22 for prior service over the remainder of a specified period, as
23 determined by the Board upon recommendation of the actuary, but
24 not to exceed a period of eighty (80) years following the operative
25 date. From July 1, 1955 to August 30, 1972 the rate of contribution
26 shall be not less than one and three hundred seventeen thousandths
27 percent (1.317%) of the total salaries of the members participating in

1 the Fund. From September 1, 1972 the rate of contributions shall be
2 not less than one and four hundred and seven thousandths percent
3 (1.407%) of the total salaries of the members participating in the
4 Fund. From the beginning of the first full pay period following the
5 beginning of the 1992 fiscal year, the rate of contribution shall be
6 equal to thirteen and six hundred sixty-five thousandths percent
7 (13.665%) of the total salaries of the members participating in the
8 Fund. From October 1, 1993 the rate of contribution shall be equal to
9 the Government Unfunded Liability Amortization Cost rate percent
10 determined in the latest completed actuarial valuation prepared for
11 the Board of Trustees by the actuary appointed by the Board, subject
12 to the approval by the Legislature by legislation.

13 The amount of contributions by the Government shall be
14 determined by applying the applicable percentage rate of
15 contributions as hereinabove prescribed to the total salaries paid to
16 the members during each payroll period, and all such amounts shall
17 be paid into the Fund following the close of each payroll period,
18 concurrently with the contributions made to the Fund by the
19 members.

20 (c) An amount resulting from the application of a rate equal to
21 average rate of return on the investment of retirement funds in the
22 preceding fiscal year of total delinquent payments during the period
23 when such payments are delinquent. In addition an amount equal to
24 one percent (1%) per year of delinquent payments shall be paid over
25 the Fund as penalty for late payment. As used in this Section,
26 delinquent payments means payments due the Fund pursuant to 4
27 GCA Section 8136 and Subsections (a) and (b) of this Section which

1 are not paid over to the Fund within ten (10) working days after
2 issuance of payroll checks.

3 (d) In addition to all other contributions made by the
4 government to the Retirement Fund pursuant to this chapter, the
5 government shall pay as a an additional contribution to the Fund one
6 percent (1%) of the total salaries of all members, effective October 1,
7 1988 through the last full pay period prior to enactment of this
8 Section. These payments shall be first applied towards any unfunded
9 liability of the Fund, if there be any.

10 (e) From October 1, 1992, the Government rate of contribution
11 shall equal Seventy Percent (70%) of the sum of the contribution
12 rates required under Section 8137(a) and Section 8137(b) up to a
13 maximum of thirteen and seven hundred seventy-three thousandths
14 percent (13.773%). From October 1, 1993, the Government rate of
15 contribution shall equal eighty percent (80%) of the sum of the
16 contribution rates required under Section 8137(a) and Section 8137(b)
17 up to a maximum of Fifteen and Seven Hundred Forty Thousandths
18 Percent (15.740%). From October 1, 1994, the government rate of
19 contribution shall equal Ninety Percent (90%) of the sum of the
20 contribution rates required under Section 8137(a) and Section 8137(b)
21 up to a maximum of Seventeen and Seven Hundred Eight
22 Thousandths Percent (17.708%). From October 1, 1995, the
23 government rate of contribution shall equal One Hundred Percent
24 (100%) of the sum of the contribution rates required under Section
25 8137(a) and Section 8137(b) up to a maximum of Nineteen and Six
26 Hundred Seventy-Five Thousandths Percent (19.675%).

1 **Section 9.** Two Million Five Hundred Seventy-Five Thousand Dollars
2 (\$2,575,000) are appropriated from the General Fund to the Department of
3 Administration for the purpose of paying contributions to the Retirement
4 Fund for the Judicial Branch, Legislative Branch and Executive Branch
5 departments, authorities and agencies (line agencies, University of Guam,
6 Guam Community College, Guam Memorial Hospital Authority, Public
7 Utility Agency of Guam, and the Public Defender Service Corporation) for
8 which appropriations from the General Fund are made in the General
9 Appropriation Act of 1993, for their operations, in order to implement the
10 amendment to § 8137 of Title 4 of the Guam Code Annotated made in Section
11 8 of this Act. This appropriation shall be utilized for no other purpose than
12 that stated in this Section, and notwithstanding any other provision of law,
13 funds authorized by this Section shall not be transferred, encumbered, or in
14 any way earmarked for any other purpose than to implement §8137 of Title 4
15 of the Guam Code Annotated as amended in Section 8 of this Act.

16 **Section 10.** A new subparagraph (k) is hereby added to §8159 of Title 4,
17 Guam Code Annotated, to read:

18 “(k) In making mortgage investments under this section
19 priority shall be given to mortgages on residential property located
20 in Guam. The aggregate of such mortgage investments shall not
21 exceed ten percent (10%) of the Fund assets.”

22 **Section 11. (a) Legislative finding.** The current Legislature finds that
23 the Legislative Operations Fund needs to be replenished because of the lump
24 sum leave payments given to employees for the Twenty-First Guam
25 Legislature. Paying these lump sums to employees at the end of a legislative
26 term can only be accomplished by using the Legislative Operations Fund,
27 which therefore needs now to be replenished.

1 (b) **Appropriation.** Two Million Seven Hundred Sixty-Two Thousand
2 One Hundred Thirty-Five Dollars (\$2,762,135) are hereby appropriated from
3 the General Fund to the Legislative Operations Fund.

4 **Section 12.** Chapter 8 of Title 4, Guam Code Annotated, is amended by
5 adding thereto §8101.1, to read:

6 "§8101.1. (a) **Statement of Legislative concern.** The actuarial
7 valuation of the Government of Guam Retirement Fund issued
8 October 9, 1992, by Deloitte & Touche expressed concern that the
9 "Fund benefit levels are excessive in comparison to most other
10 government retirement systems. Benefit levels and retirement policy
11 should be reviewed and benefit levels adjusted to match this policy.
12 Because it may be difficult to decrease benefit levels for current
13 members, it may be necessary to maintain current plan benefits levels
14 for current government employees while establishing a new plan for
15 all new members. In establishing benefit for a new plan, generally
16 accepted retirement income level standards should be observed."
17 The Legislature finds that the concern expressed by the independent
18 actuaries is a warning that the Fund may be jeopardized if the
19 benefits it provides to its members are not reasonably related and
20 restricted to the resources from which benefits may be paid. Delay in
21 examining this issue may lead to implementation of a plan for new
22 members with benefits sharply disparate from those provided to
23 present members. The Legislature concurs with the recommendation
24 of the actuaries that the Plan's benefit levels and retirement policy
25 should be reviewed and recommendations made to the Legislature
26 for enactment of such statutory changes as may be necessary.

1 (b) No later than June 30, 1993, and not later than every two
2 years thereafter, the Board shall submit to the Legislature its
3 recommendations of amendments that need be made to the law
4 establishing the Fund to protect and preserve the actuarial
5 soundness of the Fund for the benefits of all its members."

6 **Section 13.** Line 9 of the Object Classification column, 230 Contractual
7 Service, on page 7 of the Guam Visitors Bureau's Fiscal Year 1993 Budget
8 Digest, approved under Public Law 21-136, is hereby amended to read:
9 "Beach Cleaning/Maint."

TWENTY-SECOND GUAM LEGISLATURE

1993 (FIRST) Regular Session

Date: 3/16/93

VOTING SHEET

Bill No. 3

Resolution No. _____

Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAN	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓			
AGUON, John P.				✓
ARRIOLA, Elizabeth P.	✓			
BAMBA, J. George	✓			
BLAZ, Anthony C.	✓			
BORDALLO, Madeleine Z.	✓			
BROOKS, Doris F.	✓			
CAMACHO, Felix P.	✓			
DIERKING, Herminia D.	✓			
GUTIERREZ, Carl T. C.	✓			
LUJAN, Pilar C.	✓			
MANIBUSAN, Marilyn D. A.	✓			
NELSON, Ted S.	✓			
PANGELINAN, Vicente C.	✓			
PARKINSON, Don				✓
REYES, Edward D.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SHIMIZU, David L. G.	✓			
TANAKA, Thomas V. C.		✓		
UNPINGCO, Antonio R.	✓			

TOTAL

18 1 _____ 2

Twenty-Second Guam Legislature

155 Hesler Street
Pacific Arcade
Agana, Guam 96910
Telephone: (671) 472-3407 thru 9
Fax: 477-3161



Chairman, Committee
on Ways & Means

Vice-Chairman, Committee
on Rules

Vice-Chairman, Committee
on Tourism & Transportation

CARL T.C. GUTIERREZ
Senator

March 5, 1993

Honorable Speaker Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Ways & Means wishes to report out its findings on **BILL NO. 3, "AN ACT TO AMEND SUBSECTION (a) OF §8136, §§8146, 8154, 8156, AND 8137, AND TO REPEAL AND REENACT §§8151 AND 8157, ALL OF CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM RETIREMENT FUND INVESTMENTS AND GOVERNMENT AND EMPLOYEE CONTRIBUTIONS TO THE FUND, AND TO APPROPRIATE FIVE MILLION DOLLARS (\$5,000,000) TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF PAYING GOVERNMENT OF GUAM RETIREMENT FUND CONTRIBUTIONS ONLY"**, to the full Legislature with the recommendation to **do Pass as Substituted**.

The Committee Voting Record is as follows:

TO PASS:	<u>11</u>
NOT TO PASS:	<u>0</u>
ABSTENTIONS:	<u>0</u>
INACTIVE FILE:	<u>0</u>

Copies of the Committee Report and all pertinent documents are attached for your information.

Sincerely,

CARL T. C. GUTIERREZ
Chairman, Committee on
Ways & Means

Attachments

Twenty-Second Guam Legislature
Committee on Ways & Means

VOTING SHEET

BILL NO.

3

AN ACT TO AMEND SUBSECTION (a) OF §§8136, §§8146, 8154, 8156, AND 8137, AND TO REPEAL AND REENACT §§8151 AND 8157, ALL OF CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM RETIREMENT FUND INVESTMENTS AND GOVERNMENT AND EMPLOYEE CONTRIBUTIONS TO THE FUND, AND TO APPROPRIATE FIVE MILLION DOLLARS (\$5,000,000) TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF PAYING GOVERNMENT OF GUAM RETIREMENT FUND CONTRIBUTIONS ONLY.

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
<i>C. Gutierrez</i> Senator Carl T. C. GUTIERREZ Chairman	✓			
<i>H. Dierking</i> Senator Herminia D. DIERKING Vice-Chairman	✓			
<i>T. C. Ada</i> Senator Thomas C. ADA Member	✓			
Senator John P. AGUON Member				
<i>E. Arriola</i> Senator Elizabeth P. ARRIOLA Member	✓			
<i>J. George Bamba</i> Senator J. George BAMBA Member	✓			
<i>A. Blaz</i> Senator Anthony C. BLAZ Member	✓			
<i>P. Lujan</i> Senator Pilar C. LUJAN Member	✓			
<i>Marilyn D. A. Manibusan</i> Senator Marilyn D. A. MANIBUSAN Member	✓			
<i>S. Nelson</i> Senator Ted S. NELSON Member	✓			
<i>V. C. Pangelinan</i> Senator Vicente C. PANGELINAN Member	✓			
<i>A. R. Unpingco</i> Senator Antonio R. UNPINGCO Member	✓			
Speaker Joe T. SAN AGUSTIN Ex-Officio Member				

**COMMITTEE ON WAYS AND MEANS
COMMITTEE REPORT ON**

BILL NO. 3

AN ACT TO AMEND SUBSECTION (a) OF §8136, §§8146, 8154, 8156, AND 8137, AND TO REPEAL AND REENACT §§8151 AND 8157, ALL OF CHAPTER 8 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO GOVERNMENT OF GUAM RETIREMENT FUND INVESTMENTS AND GOVERNMENT AND EMPLOYEE CONTRIBUTIONS TO THE FUND, AND TO APPROPRIATE FIVE MILLION DOLLARS (\$5,000,000) TO THE DEPARTMENT OF ADMINISTRATION FOR THE PURPOSE OF PAYING GOVERNMENT OF GUAM RETIREMENT FUND CONTRIBUTIONS ONLY.

PURPOSE AND ESSENTIAL ELEMENTS

Bill No. 3 is the same as that bill revised in Committee on Ways and Means in the Twenty-First Guam Legislature and reported out as Substitute Bill No. 945, and makes various changes to the Retirement law of Guam to strengthen the Guam Retirement Fund and reduce the unfunded liability. The purpose is to widen the ability of the Retirement Fund to invest in various areas such as international investments, which are currently prohibited. Additionally, provisions are made for increasing the member contributions and the government contributions to the Fund.

Section 1 omits language providing a limitation on the percentage of obligations of the Dominion of Canada that can be owned by the Fund. The purpose of this is to include Canada with all other foreign investments, which are allowed for the first time under Sections 3 and 4 of the bill. The present law treats Canadian obligations as if they were domestic obligations.

A new Subsection (b) to §8146 added in Section 1 of the bill places a limitation on the amount of investments that the Fund can own, and sets that limitation at 30% at cost of the combination of investments in foreign corporations and foreign common or capital stock.

Section 2 repeals and reenacts §8151 to broaden the original section, which authorized investments only in the government of the Dominion of Canada, and the section now authorizes certain investments in the governments of foreign countries provided that no more than 10% of any one issue is bought, and applying the "prudent person" rule to the investment.

Section 3 also deletes references to the Dominion of Canada, as that country will be treated as any other foreign country, and adds new portions to the section requiring that no more than five percent (5%) of investments in domestic corporations shall be invested in any one domestic issuing entity, and adds other new portions dealing with investments in foreign corporations. With regard to investments in foreign corporations, no more than one and one-half percent of the Fund at cost shall be invested in any one issuing foreign entity.

Section 4 also deletes references to the Dominion of Canada and makes provision for investment in foreign preferred stock. Five percent of the Fund can be invested in preferred stock of a domestic company, and two percent of the Fund can be invested in a foreign company.

Section 5 repeals and reenacts §5157, deleting requirements of certain profits which must be made by domestic common or capital stock, certain limitations on dividends that the companies can pay, and that the issuer shall not be in default .

Section 6 provides for increased member contributions to the Fund of 8 1/2% after October 1, 1992 and 9 1/2% after October 1, 1993. This section also provides for a raise in the member contribution of non-base pay from 9 1/2% from October 1, 1992 to September 30, 1993 and 10 1/2% thereafter.

Section 7 provides for decreased government normal contributions for October 1, 1992 through September 30, 1993, down from 10.699% of both base pay and the pay for which members opted to contribute as provided in item (6) of §8136(a), to 6.010% of both of these contribution sources. Starting October 1, 1992, the rate of contribution shall be equal to the Government Normal Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board.

Subsection (b) of Section 7 provides for unfunded liability amortization cost. In this Subsection, an amendment was added to raise the government's contribution from October 1, 1992 to September 30, 1993 to 13.665%, and to have the rate of contribution after October 1, 1993 equal to the Government Unfunded Liability Amortization Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board.

Subsection (d) of Section 7 provides that the additional contribution to the Fund of 1% of the total salaries of all members starting October 1, 1988 shall end on September 30, 1992.

Subsection (e) of Section 7 provides that after October 1, 1992 the government rate of contribution shall equal Seventy Percent (70%) of the sum of the contribution rates required under this section, after October 1, 1993 the contribution shall be raised to Eighty Percent (80%), after October 1, 1994 the contribution shall be raised to Ninety Percent (90%), and after October 1, 1995, the contribution shall be One Hundred Percent (100%) of that required.

Section 10 appropriates \$5 Million to the Department of Administration to pay only for contributions to the Retirement Fund.

PUBLIC HEARING

The Committee on Ways and Means conducted a public hearing on Wednesday, February 3, 1993 at 9:00 a.m. in the Legislative Public Hearing Room to gather

COMMITTEE ON WAYS AND MEANS
COMMITTEE REPORT ON

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Section 10 appropriates \$5 Million to the Department of Administration to pay only for contributions to the Retirement Fund.

The Committee on Ways and Means conducted a public hearing on Wednesday, February 3, 1993 at 9:00 a.m. in the Legislative Public Hearing Room to gather testimony on Bill No.3. Present at the hearing were the Chairman, Senator Carl T.C. Gutierrez, Chairman of the Committee, who conducted the hearing, being joined by Senators A. C. Blaz, E. P. Arriola, T. C. Ada, J. G. Bamba, B. C. Pangelinan, H. D. Dierking, M. D. A. Manibusan, and D. L. G. Shimizu.

TESTIMONY

Testimony offered on Bill No. 945 at public hearing Tuesday, October 27, 1992:

The following persons offered testimony on Bill No. 945 when that bill was heard during the Twenty-First Guam Legislature, and a summary of their testimony is included in this report on Bill No. 3 in order to include direct testimony from the actuary: Fund actuary Mr. F. Jay Lingo of Deloitte & Touche, Mr. Joaquin Blaz as a member of the Retirement Fund Board of Trustees, Ms. Sylvia Stake, Deputy Director of the Government of Guam Retirement Fund representing the Fund, accompanied by Mr. Dan Fejarang and Mr. Martin Dugan of the Government of Guam Retirement Fund.

1. Ms. Stake presented the testimony on behalf of the Retirement Fund Board. She indicated during her testimony that the Board had gone through the bill and the testimony presented represents the collective opinion of the Board. The opinions were developed with the assistance of the Fund's advisors.

Ms. Stake pointed out that the Fund would like to include government bonds and preferred stock, all foreign investments, in the Thirty Percent (30%) limitation on amount of the Fund that can be invested in any combination of investment instruments.

The Retirement Fund is not opposed to treating investments in the Dominion of Canada in the same category as all other foreign investments. Although the Prudent Person standard is applied to these investments, it was pointed out that this standard applies in any event, however, there are no ratings which are applicable, and in the absence of ratings, some sort of standards should be put into effect to give clarification.

The Fund's testimony also acknowledges that the usage of the term "investment grade" as a requirement for the standard of investing in domestic investments is known in the industry, that it would be better to spell out the standards. The Fund would like to retain the ability to invest in non-rated bonds, provided the financial statements and earnings warrant this type of investment. Again, the Fund would like to have more research into the standards which should be required for foreign investments, rather than just a mention of the Prudent Person Standard. The Fund itself would like to propose standards in this area.

The Fund would like to separate domestic from foreign investments in terms of the limit of investment in any one issue. For domestic investments, the Fund would like to retain the Five Percent (5%) limit of the fund at cost, while for foreign investments, the Fund would like to impose a One and One-Half Percent (1.5%) limitation.

Senator Gutierrez questioned Ms. Stake concerning the imposition of these tighter limitations by the Legislature rather than the Board making its own decisions within a Five Percent (5%) limitations, and Ms. Stake indicated that the Board felt that there may be an undue liability burden placed on the Board if the Five Percent (5%) limitation is maintained for foreign investments, as this would comprise about \$28.1 Million. Ms. Stake pointed out that diversification is also a standard which the Board must follow.

The Fund wants to retain the Two Percent (2%) limitation on investments in preferred stock of foreign corporations, rather than have a larger Five Percent (5%) limitation applied. The Five Percent (5%) limitation can be applied to domestic preferred stock.

Ms. Stake pointed out that the Board does not want to expose itself to any unnecessary liability, and that is why the lower percentage limitations on various foreign investments is desirable. Another reason is that this bill allows the Board to venture into another area which is unfamiliar to the Board, so the Board would like to proceed cautiously.

Ms. Stake explained that the increase in the employee's contribution would go up Two Percent (2%) per year and remain stable at that point, and that the government's contribution would fluctuate, depending on the actuary's analysis of the condition of the Fund.

The Fund noted that the Fund could provide Seventy Percent (70%) of the total amount needed for the amortization, rather than One Hundred Percent (100%), for the first year, and Eighty Percent (80%) for the second year. It is desirable to increase the contribution to Ninety Percent (90%) and all the way up to One Hundred Percent (100%) by 1995.

2. The next person to testify was Mr. F. Jay Lingo, Consulting Actuary to the Government of Guam Retirement Fund. He represented that he had served in this position since 1984. His testimony related solely to the increased contributions portion of the bill.

Mr. Lingo testified that he did not believe that the Fund was being funded under any widely acceptable funding basis as used actuarial by any other retirement system. He pointed out there were two components: the Normal Cost, which is the amount used to fund the total benefits currently accruing in a year, and Amortization of Unfunded Liability over a reasonable period of time. Accrued liability is important to the second component. There are two parts to accrued liability: for current retirees is the present value of their expected future benefits to be paid to them, discounted with interest and the probability that they will

receive it; for active members, the accrued liability is accrued over their working lifetime so that it is fully accrued at the point of their retirement. At any point in time after their initial employment they have an accrued liability in the Fund.

As of September 30, 1991, the total accrued liability of the Fund based on our actuarial assumptions generate a liability of \$1.152 Billion. This is the first time that the liability has gone over the \$1 Billion barrier. The surveys are done every two years. We have assets in the Fund as of September 30, 1991 of \$531 Million, leaving an unfunded liability at that point of \$620 Million, up from \$293 Million in 1985. There has been a continuing increase in that liability.

This unfunded liability does not have anything to do with the COLA provisions which are appropriated from the General Fund. The unfunded liability only has to do with the benefits which are to be paid from the Retirement Fund.

Of the total accrued liability of \$1.152 Billion, \$500 Million of this is with respect to current retirees and the remainder is for active members. \$531 Million assets in the Fund right now, recognize that \$173 Million of that is attributable to current active member contributions, the remainder of \$359 Million can be counted towards retiree obligations.

Mr. Lingo testified that it would be a reasonable statement to make that even the present value of current retiree liabilities is not funded by the Retirement Fund. They are approximately \$150 Million short. The accrued liabilities of retirees have not been funded by the time that they retire, as the costs have not been set aside while the future retirees are active members of the Fund. There is a generational shift of cost to future tax payers.

There is something that actuaries measure called the Fund ratio, which is simply the ratio of plan assets to the accrued liabilities. \$530 Million is assets divided by \$1.152 Billion liabilities and the funding ratio is 46.2%. If you compare that funding ratio with similar funding ratios of other public sector retirement systems you will see that Guam is at the very low end of that spectrum. The Government of Guam Retirement system is not being funded to the extent of other retirement systems.

The total government of Guam retirement fund contribution rate requirement on a full actuarial basis is 25.64% of payroll. Part of this consists of the government's Normal Cost, just over 7%, and the other part is the amount to amortize this unfunded past service liability. On an actuarial basis that is 18.62%. The current contribution level of 13.106% falls far short of the 25.64% requirement. It is only funding about 51% of the full actuarial rating.

The bill is stressing the need to fund towards the full actuarial requirements. One of the things that is happened over the last six years is the total actuarial rate for both members and for the government combined has increased from about 25% of payroll in 1985 to 33% in 1991. This increase has come about because of significant pay increases, as benefits are related to pay. There have been service credits for unused sick and annual leave added and educational credits have

been granted. The actuarial costs have increased about 8% during that six year period of time, yet the funding levels have only increased 1%. Two or three years ago, the government of Guam did add an additional 1% to its contribution rate, however, the member contribution rates have remained the same.

The Government Accounting Standards Board has an exposure draft out on pension accounting. It is an exposure draft, not final form, however, if adopted in its present form, there would be some requirements that the government transfer from a liability ledger to the ledger of the General Fund any difference between what it is contributing and what the full actuarial rate is. This accounting change could affect loan covenants, bond issues, and so forth.

Mr. Lingo expressed that he believed that Subsection (b) of §8137 of Chapter 4 of Guam Code Annotated requires that full actuarial funding of the unfunded liability is required by the year 2031. At the current contribution levels, the unfunded liability will not be funded by that year, but will have grown significantly, up to about \$4 Billion. These numbers are a long ways out there, however the government is not meeting the statutory requirements of this section of the code.

Right now, the contributions going into the Fund are meeting the benefit payments, but after the year 2000, there will be a period of 15-20 years where the current payments will not meet the then-current benefit outgo. Investment income will be dipped into to make those benefit payments. This is one of the reasons that the unfunded liability will continue to grow.

Mr. Lingo expressed that there should be a requirement that 100% of the full actuarial cost rate after the 4 year phase-in period.

What happens when the contribution are made at the full actuarial rate is that over a period of years progress is made in the Security Ratio so that it moves towards 100% funding. If the provisions for 100% full funding within 4 years is put into the bill, projections indicate that we will reach full funding about the year 2017. The full funding will be reached in the future. It is a goal to reach full funding in the future, however public sector retirement funds on average fund about 82% of their liability. Guam is in the mid-40% level. Guam has a long way to go to catch up with where most retirement systems are now.

The government is currently contributing 13.106%, or \$51 Million. Under the bill, by 1983, the percent will move up to 13.22%, not a significant jump, about \$1/2 Million.

Section 8 of the Bill provides for an additional \$5 Million in funding on top of the 13.11%, so certainly not all of that will be needed in 1993 to meet the phased-in actuarial requirement of 13.22%.

We are in agreement with a member contribution rate of 8 1/2%. In order not to increase the member contribution in 1993, the remaining \$4 1/2 Million of the \$5 Million Dollar appropriation can be used to meet the member requirement.