



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT

Received By: DL

Time: 12:10

Date: 6/29/95

JUN 28 1995

The Honorable Ted S. Nelson
Acting Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

Via: Office of Speaker Don Parkinson

Dear Speaker Nelson:

Enclosed please find a copy of Substitute Bill No. 266 (LS), "AN ACT TO AMEND §8170(a) OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE", which I have signed into law today as **Public Law No. 23-33**.

This bill has been signed into law with the understanding that subsequent legislation will provide corrections to the language clarifying the intent of the bill.

The intent of the bill is to base the retirement annuity of senators, as is done for other government of Guam employees, on their Average Annual Salary computed as an average of their three (3) highest years of government service, whether or not served as a senator. This replaces the former provisions of law which allowed senators to accrue retirement credit based on the salary of the Director of the Department of Administration. Since former senators paid into the Retirement Fund based on the salary of the Director of the Department of Administration rather than their salary as senator, the intent is to offer current and former senators the option of using the salary of the Director of the Department of Administration in the computation of the Average Annual Salary, or using the actual salary received as a senator in this computation.

This bill is essentially the same as Substitute Bill No. 127, previously passed by the Legislature and vetoed on May 31, 1995 because the bill's language did not take into account the situation of former senators who have not yet retired from government service.

OFFICE OF THE LEGISLATIVE SECRETARY

Date: June 28, 1995

Time: 3:45 pm

Received By: Phil Roberto

Signature: Phil Roberto

Stamp: JUN 28 1995

Signature: Cashy...



Although language has been inserted into Substitute Bill No. 266 to include former senators, there is still a lack of clarification concerning the reference point in time to apply the provisions of the bill to former senators, since the provisions upon which they contributed to the fund as senators would be repealed at the time of their subsequent retirement.

In order to rectify any misconceptions of the intent of this legislation, three changes need to be made, which are set out below.

1. The Executive recommends that the following language be inserted in Subsection (a) of §8170 of Title 4, Guam Code Annotated, either in item (3) as contained in this legislation, or as a separate item (5):

"Anyone who is not currently a senator but who has served as a senator prior to the effective date of this Subsection may, at their option at the time of their retirement, have their Average Annual Salary computed based on the amount of contributions based on the salary of the Director of the Department of Administration which they paid in according to the provisions of Subsection (a) of Title 4, Guam Code Annotated, prior to the effective date of this Subsection, or may have their Average Annual Salary computed based on the provisions of this Subsection."

2. The Executive also recommends that item (4) of Subsection (a) of §8170 of Title 4, Guam Code Annotated, amended in this legislation, be further amended to read:

"(4) The Retirement Fund shall allow any ~~[former or]~~ incumbent Legislator who desires not to receive the benefits ~~{as vested under 4 GCA §8170(a) prior to the effective date of this Act,}~~ of having retirement credit for time served as a senator prior to the effective date of this Subsection to be computed based on the salary of the Director of the Department of Administration to permanently and irrevocably divest himself or herself thereof. Any election to divest must be in writing and, at the option of the incumbent Senator, may be effective retroactive either to [dates appropriate to the Legislator] the date that the incumbent senator first took office, or to January 2, 1995. Nothing herein shall have the effect of divesting ~~[a former or]~~ an incumbent Senator of any rights without his or her consent."

3. Last, the Executive recommends that language be included which clarifies that senators elected in the future, after enactment of this legislation, would not have the option to base their Average Annual Salary upon the salary of the Director of the Department of Administration. A new item should be added to read:

“(6) Any person who becomes a senator for the first time after the effective date of this Subsection shall have their Average Annual Salary computed as provided for in item (3) of this Subsection.”

I am happy that the Legislature has attempted to follow the sentiment of the voters in paring down those items in legislation which are more costly than necessary. This legislation would alleviate some small part of the burden on the Government of Guam Retirement Fund.

I await the amendments to this legislation as outlined above, to fully implement the legislative intent.

Very truly yours,



Carl T. C. Gutierrez

Attachment
230525

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 266 (LS), "AN ACT TO AMEND §8170(a) OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE," was on the 6th day of June, 1995, duly and regularly passed. The Bill received twenty votes to pass, with one member off-island.



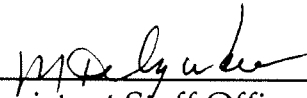
DON PARKINSON
Speaker

Attested:



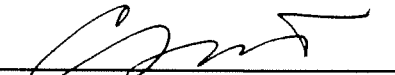
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this Twelve day of June, 1995,
at 10:30 o'clock A.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: 6-28-95

Public Law No. 23-33

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

Bill No. 266 (LS)
As substituted on the floor

Introduced by:

J. M. S. Brown
E. Barrett-Anderson
T. C. Ada
J. P. Aguon
A. C. Blaz
F. P. Camacho
M. C. Charfauros
H. A. Cristobal
M. Forbes
A. C. Lamorena V
C. Leon Guerrero
L. Leon Guerrero
T. S. Nelson
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND §8170(a) OF TITLE 4, GUAM
CODE ANNOTATED, RELATIVE TO THE
RETIREMENT OF MEMBERS OF THE GUAM
LEGISLATURE.

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

1 **Section 1.** Subsection (a) of §8170, Title 4, Guam Code Annotated, is
2 hereby amended to read:

1 "(a) Definitions and Rules of Construction. For purposes of
2 this Chapter, the following definitions and rules of construction shall apply
3 to members of the Legislature:

4 (1) *Legislature* means the Guam Legislature created
5 by the Organic Act of Guam. The terms "*Member*",
6 "*Senator*", and "*Legislator*" are synonyms in referring to a
7 person gaining a seat in the Legislature as a result of a
8 general or special election;

9 (2) *Service as a member of the Legislature during a*
10 *regular session for any one (1) calendar year* shall be deemed a
11 full year of service, regardless of the length of the session;

12 (3) *Average annual salary* for any member of the
13 Legislature shall mean the average of the three (3) highest
14 annual salaries received by a Legislator during his years of
15 credited service, whether or not with the Legislature;

16 (4) The Retirement Fund shall allow any former or
17 incumbent Legislator who desires not to receive the
18 benefits as vested under 4 GCA §8170(a) prior to the
19 effective date of this Act, to permanently and irrevocably
20 divest himself or herself thereof. Any election to divest
21 must be in writing and may be effective retroactive to dates
22 appropriate to the Legislator. Nothing herein shall have the
23 effect of divesting a former or incumbent Senator of any
24 rights without his or her consent."

TWENTY-THIRD GUAM LEGISLATURE

1995 (FIRST) Regular Session

Date: 6/6/95

VOTING SHEET

Bill No. 266

Resolution No. _____

Question: _____

NAME	AYE	NO	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	✓		:	
AGUON, John P.				✓
BARRETT-ANDERSON, Elizabeth	✓			
BLAZ, Anthony C.	✓			
BROWN, Joanne S.	✓			
CAMACHO, Felix P.	✓			
CHARFAUROS, Mark C	✓			
CRISTOBAL, Hope A.	✓			
FORBES, MARK	✓			
LAMORENA, Alberto C., V	✓			
LEON GUERRERO, Carlotta	✓			
LEON GUERRERO, Lou	✓			
NELSON, Ted S.	✓			
ORSINI, Sonny L.	✓			
PANGELINAN, Vicente C	✓			
PARKINSON, Don	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Angel L. G.	✓			
SANTOS, Francis E.	✓			
UNPINGCO, Antonio R.	✓			
WONPAT-BORJA, Judith	✓			

TOTAL

20

1



**TWENTY-THIRD
GUAM LEGISLATURE**

155 Hesler St.
Agana, Guam 96910

Member,
Committee on
Economic-Agricultural
Development & Insurance

Member,
Committee on
Electrical Power &
Consumer Protection

Member,
Committee on Federal
& Foreign Affairs

Member,
Committee on Rules

Member,
Committee on
Tourism & Transportation

Member,
Commission on
Self-Determination

Member,
Guam Finance Commission

Senator Francis E. Santos

Chairperson, Committee on Ways & Means

Phone: (671) 472-3414/5 Fax: (671) 477-3048

June 6, 1995

Honorable Don Parkinson
Speaker, Twenty-Third Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Speaker Parkinson:

The Committee on Ways & Means now reports its findings on **Bill #266 An Act to Amend 4GCA of 8170(a) Relative to the Retirement of the Members of the Guam Legislature**, to the full Legislature with the recommendation to do Pass.

Votes of the Committee members are as follows:

TO PASS:	<u>9</u>
NOT TO PASS:	<u>0</u>
ABSTAIN:	<u>0</u>
INACTIVE FILE:	<u>0</u>
OFF ISLAND	<u>1</u>

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

Respectfully Submitted,

Francis E. Santos



TWENTY-THIRD
GUAM LEGISLATURE

155 Hesler St.
Agana, Guam 96910

Office of
Senator Francis E. Santos

Committee on Ways & Means
Phone: (671) 472-3414/5 Fax: (671) 477-3048

VOTING SHEET

ON BILL #266 AN ACT TO AMEND 4GCA OF 8170(a)
RELATIVE TO THE RETIREMENT OF MEMBERS OF THE
GUAM LEGISLATURE

<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>..TO PLACE IN INACTIVE FILE</u>
 Senator Francis E. Santos Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Joe T. San Agustin Vice Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Speaker W. Don Parkinson Ex-Officio Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John P. Aguon Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Sonny L. Orsini Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Judith Won Pat-Borja Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Elizabeth Barrett-Anderson Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Anthony C. Blaz, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Felix Camacho, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Antonio R. Unpingco Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TWENTY-THIRD GUAM LEGISLATURE

Committee on Ways & Means
Chairperson, Senator Francis E. Santos

COMMITTEE REPORT ON BILL #266, AN ACT TO AMEND 4 GCA OF 8170(A) RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE

Bill #266 is a reintroduced version of vetoed bill #127. Upon resubmission of the bill the author has made the following changes that are congruent with the suggested changes alluded to by the Acting Governor.

RECOMMENDATION

Based on these findings the Committee on Ways and Means recommends that the ammended version of Bill #266 be reported out to the full Legislature with the recommendation to pass.

Attachments to this report:

- Committee on Rules Memorandum to Committee on Ways & Means transmitting referral of Bill #266
- Veto Message of Bill #127
- Letter from the Committee on Ways & Means to the Speaker of the Guam Legislature submitting Bill #127
- Committee Report of Bill #127
- Committee on Rules Memorandum to Committee on Ways & Means transmitting referral of Bill #127
- Bill #127
- Letter from Committee on Ways & Means to the Director of the Guam Association of Retired Persons
- Letter from the Director of the Guam Association of Retired Persons
- Written testimony of the Director of the Guam Association of Retired Persons
- Letter from Committee on Ways & Means to the Acting Director of the Government of Guam Employees Retirement Fund
- Written Testimony of the acting Director of the Government of Guam Employees Retirement Fund.

**TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session**

Bill No.: 266

Introduced by:

J.M.S. Brown *MSB*
E. Barrett-Anderson *EBB*
AUB LAZ
FP CAMACHO

**AN ACT TO AMEND 4 GCA OF 8170(a)
RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM
LEGISLATURE**

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

2

3 Section 1. Title 4 Guam Code Annotated Section 8170 is hereby
4 amended to read:

5

6 "Section 8170. Members of the Legislature. The provisions of this
7 Chapter shall apply to any person who has served as a member of the
8 Legislature or who shall hereafter serve as such a member and any such
9 person shall be considered a member of the Fund entitled to all the
10 benefits of a member based upon the following additional provisions:

11

12 a. Definitions and Rules of Construction. For purposes of
13 this Chapter, the following definitions and rules of constructions shall
14 apply to members of the Legislature:

15

16 1) Legislature means the Guam Legislature created by
17 the Organic Act of Guam. "Member", "Senator", "Legislator": are synonyms
18 in referring to a person gaining a seat in the Legislature as a result of a
general or special election.

1
2 2) Service as a member of the Legislature during
3 regular session for any one (1) calendar year shall be deemed a full year of
4 service, regardless of the length of the session;
5

6 3) Average annual salary for any member of the
7 Legislature shall mean the average of the three (3) highest annual salaries
8 received by a ~~member~~ Legislator during his years of credited service,
9 whether or not with the Legislature. ~~or an amount equivalent to the annual~~
10 ~~compensation paid the Director of Administration at the time the Legislator~~
11 ~~applies for benefits, whichever is greater; provided, however, that~~
12 ~~effective January 1, 1978, whenever the annual compensation of the~~
13 ~~Director of Administration exceeds the annual compensation of the~~
14 ~~members of the Legislature, the contributions of the Legislators shall be~~
15 ~~based on the annual compensation of the Director of Administration.~~
16

17 4) The Retirement Fund shall allow any past or
18 incumbent Legislator who desires not to receive the benefits vested under
19 Title 4 GCA Section 8170(a) to permanently and irrevocably divest himself
20 thereof. An election to divest must be in writing and may be effective
21 retroactive to dates appropriate to the Legislator. Nothing herein shall
22 have the effect of divesting past or incumbent Senators of any rights
23 without his or her consent.



OFFICE OF THE GOVERNOR
TERRITORY OF GUAM

MAY 31 1995

The Honorable Don Parkinson
Speaker
Twenty-Third Guam Legislature
424 West O'Brien Drive
Julale Center - Suite 222
Agana, Guam 96910

OFFICE OF THE SPEAKER	
Date:	5.31.95
Time:	4:37 P
Received By:	<i>Lucia Guzman</i>
Print Name:	LUCIA GUZMAN

Dear Speaker Parkinson:

Enclosed please find Substitute Bill No. 127 (LS), "AN ACT TO AMEND §8170(a) OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE", which I have vetoed.

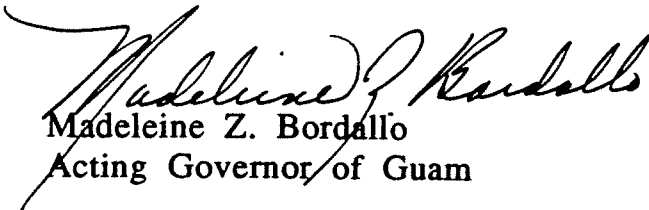
This bill changes the base salary upon which the retirement of senators is calculated. Presently, senators retirement annuity is based upon the salary of the Director of the Department of Administration, if that is higher than another salary upon which the individual senator can base his or her retirement benefits.

The goal of this legislation is in keeping with public sentiment concerning salary and benefits of senators, and I am in favor of the bill. Unfortunately, I am unable to approve and sign this bill into law because of inequities contained within the bill with regard to former senators who are not yet eligible for retirement due to lack of required years of government service. The bill contains provisions to take care of those persons who are current senators. Regretfully, it neglects to make provision for those persons who are not yet retired and who are former senators.

Over the years, former senators, while they were current senators, have paid personal contributions into the Government of Guam Retirement Fund

at a rate equal to that required of the Director of the Department of Administration. At the time that they were senators, this was the correct and legal rate. This bill makes no provision to handle the situation of former senators, and subjects these former senators to possible legal disputes regarding the calculation of their future retirement annuities.

Very truly yours,



Madeleine Z. Bordallo
Acting Governor of Guam

Attachment

230479

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 127 (LS), "AN ACT TO AMEND §8170(a) OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE," was on the 14th day of May, 1995, duly and regularly passed.



TED S. NELSON
Acting Speaker

Attested:



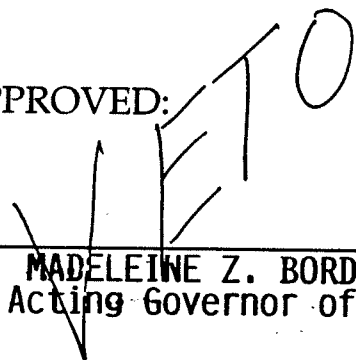
JUDITH WON PAT-BORJA
Senator and Legislative Secretary

This Act was received by the Governor this 24th day of May,
1995, at 4:20 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



MADELEINE Z. BORDALLO
Acting Governor of Guam

Date: _____

Public Law No. _____

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) REGULAR SESSION

Bill No. 127 (LS)
As substituted by the
Author and further
substituted on the floor.

Introduced by:

J. M. S. Brown
E. Barrett-Anderson
A. C. Blaz
F. P. Camacho
A. Lamorena V
C. Leon Guerrero
M. Forbes
T. C. Ada
J. P. Aguon
M. C. Charfauros
H. A. Cristobal
L. Leon Guerrero
T. S. Nelson
S. L. Orsini
V. C. Pangelinan
D. Parkinson
J. T. San Agustin
A. L. G. Santos
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

AN ACT TO AMEND §8170(a) OF TITLE 4, GUAM
CODE ANNOTATED, RELATIVE TO THE
RETIREMENT OF MEMBERS OF THE GUAM
LEGISLATURE.

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

1 Section 1. Subsection (a) of §8170, Title 4, Guam Code Annotated, is
2 hereby amended to read:

1 "(a) Definitions and Rules of Construction. For purposes of
2 this Chapter, the following definitions and rules of construction shall apply
3 to members of the Legislature:

4 (1) *Legislature* means the Guam Legislature created
5 by the Organic Act of Guam. The terms "*Member*",
6 "*Senator*", and "*Legislator*" are synonyms in referring to a
7 person gaining a seat in the Legislature as a result of a
8 general or special election;

9 (2) *Service as a member of the Legislature during a*
10 *regular session for any one (1) calendar year* shall be deemed a
11 full year of service, regardless of the length of the session;

12 (3) *Average annual salary* for any member of the
13 Legislature shall mean the average of the three (3) highest
14 annual salaries received by a Legislator during his years of
15 credited service, whether or not with the Legislature.

16 (4) The Retirement Fund is authorized by rule and
17 regulation to adopt procedures to allow any incumbent
18 Legislator who desires not to receive the benefits as vested
19 under 4 GCA §8170(a) prior to the effective date of this Act,
20 to permanently and irrevocably divest themselves thereof.
21 Any election to divest must be in writing and may be
22 effective retroactive to dates appropriate to the incumbent
23 Legislator. Nothing herein shall have the effect of
24 divesting an incumbent Senator of any rights without his or
25 her consent."

Office of
Senator Francis Santos

Committee on Ways & Means
Phone: (671) 472-3414/5 Fax: (671) 477-3048

May 10, 1995



**TWENTY-THIRD
GUAM LEGISLATURE**

155 Hesler St.
Agana, Guam 96910

Honorable Don Parkinson
Speaker, Twenty-Third Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Speaker Parkinson:

The Committee on Ways & Means conducted a Public Hearing on March 23, 1995, to review Bill #127 **An Act to Amend 4 GCA of 8170(a) Relative to the Retirement of Members of the Guam Legislature** and now reports its findings to the full Legislature with the recommendation to Do Pass.

Votes of the Committee members are as follows:

TO PASS:	<u>8</u>
NOT TO PASS:	<u>1</u>
ABSTAIN:	<u>0</u>
INACTIVE FILE:	<u>0</u>

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

Respectfully Submitted,

Francis E. Santos

Attachments

95 MAY 11 AM 10:45



TWENTY-THIRD
GUAM LEGISLATURE


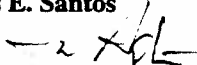
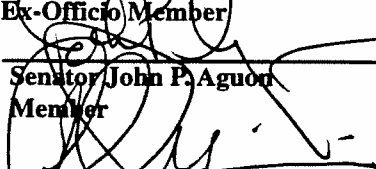
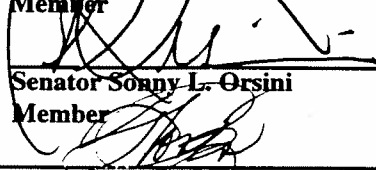


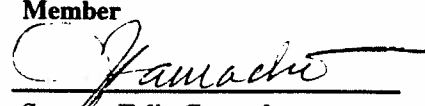
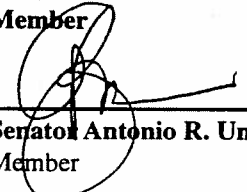
155 Hesler St.
Agana, Guam 96910

Office of Senator Francis Santos

Committee on Ways & Means
Phone: (671) 472-3414/5 Fax: (671) 477-3048

VOTING SHEET

**BILL #127 AN ACT TO AMEND 4 GCA OF 8170(a) RELATIVE
RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM
LEGISLATURE**

<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>..TO PLACE IN INACTIVE FILE</u>
 Senator Francis E. Santos Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Joe T. San Agustin Vice Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Speaker W. Don Parkinson Ex-Officio Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator John P. Aguon Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Sonny L. Orsini Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Judith Won Pat-Borja Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Elizabeth Barrett-Anderson Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Anthony C. Blaz, Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Felix Camacho, Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Senator Antonio R. Unpingco Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

TWENTY-THIRD GUAM LEGISLATURE

Committee on Ways & Means
Chairperson, Senator Francis E. Santos

COMMITTEE REPORT ON BILL #127, AN ACT TO AMEND 4 GCA OF 8170(A) RELATIVE TO HE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE

A Public Hearing was held on Thursday, March 23, 1995, at 10:00a.m. by the Committee on Ways & Means to discuss Bill #127. The hearing was held in the Public Hearing Room in the Legislative Building in Agana.

COMMITTEE MEMBERS PRESENT

Senator Francis E. Santos, Chairman; Senator Elizabeth Barrett-Andersen; Senator Carlotta Leon Guerrero; non member present Senator Ted Nelson.

WITNESSES PRESENT

Michele B. Santos, Acting Director, Government of Guam Retirement Fund, Mr. Joseph Torres, Acting Deputy Director, Government of Guam Retirement Fund, and Mr. Lorenzo Quichocho, General Accounting Supervisor, Government of Guam Employees Retirement Fund.

TESTIMONY/QUESTIONS/COMMENTS

Mrs. Michele B. Santos offered both written and oral testimony on behalf of the Retirement Fund Division in support of Bill #127, stating that it would right an injustice and an inequity in the application of retirement benefits afforded only to members of the Legislature. She stated that the Retirement Fund premises are

based upon actual earnings and that no exceptions should be made in order for it to be equitable to all Government of Guam employees.

On April 3, 1995, Senator Francis E. Santos recieved a letter from Senator Joanne Browne, the principal sponsor of Bill #127 requesting that the original bill be substituted with an ammended version of the bill, as prepared by Senator E. Barrett-Anderson.

RECOMMENDATION

Based on these findings the Committee on Ways and Means recommends that the ammended version of Bill #127 be reported out to the full Legislature with the recommendation to pass.

Attachments to this report:

- Committee on Rules Memorandum to Committee on Ways & Means transmitting referral of Bill #127
- Bill #127
- Letter from Committee on Ways & Means to the Director of the Guam Association of Retired Persons
- Letter from the Director of the Guam Association of Retired Persons
- Written testimony of the Director of the Guam Association of Retired Persons
- Letter from Committee on Ways & Means to the Acting Director of the Government of Guam Employees Retirement Fund
- Written Testimony of the acting Director of the Government of Guam Employees Retirement Fund.

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.:127
(As Substituted by the Author -
Items 1), 3) and Section 2)

Introduced by:

J.M.S. Brown
E. Barrett-Anderson
A.C. Blaz

F.P. Camacho
A. Lamorena
C. Leon Guerrero
M. Forbes

AN ACT TO AMEND 4 GCA OF 8170(a)
RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM
LEGISLATURE

0 **BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

1 Section 1. Title 4 Guam Code Annotated Section 8170 is hereby
2 amended to read:

3
4 "Section 8170. Members of the Legislature. The provisions of this
5 Chapter shall apply to any person who has served as a member of the
6 Legislature or who shall hereafter serve as such a member and any such
7 person shall be considered a member of the Fund entitled to all the
8 benefits of a member based upon the following additional provisions:

9
10 a. Definitions and Rules of Construction. For purposes of
11 this Chapter, the following definitions and rules of constructions shall
12 apply to members of the Legislature:

0 1) Legislature means the Guam Legislature created by
1 the Organic Act of Guam. "Member", "Senator", "Legislator": are synonyms
2 in referring to a person gaining a seat in the Legislature as a result of a
3 general or special election.
4

5 2) Service as a member of the Legislature during
6 regular session for any one (1) calendar year shall be deemed a full year of
7 service, regardless of the length of the session;
8

9 3) Average annual salary for any member of the
10 Legislature shall mean the average of the three (3) highest annual salaries
11 received by a ~~member~~ Legislator during his years of credited service,
12 whether or not with the Legislature. ~~or an amount equivalent to the annual~~
13 ~~compensation paid the Director of Administration at the time the Legislator~~
14 ~~applies for benefits, whichever is greater; provided, however, that~~
15 ~~effective January 1, 1978, whenever the annual compensation of the~~
16 ~~Director of Administration exceeds the annual compensation of the~~
17 ~~members of the Legislature, the contributions of the Legislators shall be~~
18 ~~based on the annual compensation of the Director of Administration.~~
19

20 Section 2. The Retirement Fund is authorized by rule and regulation
21 to adopt procedures to allow any incumbent Legislator who desires not to
22 receive the benefits as vested under 4 GCA §8107(a), to permanently
23 divest themselves thereof. Any election to divest may be effective
24 retroactive to dates appropriate to the incumbent Legislator."



COMMITTEE ON RULES

Twenty-Third Guam Legislature
155 Hesler St., Agana, Guam 96910

February 15, 1995

MEMORANDUM

TO: Chairperson, Committee on Ways and Means

FROM: Chairman, Committee on Rules

SUBJECT: Referral - Bill No. 127

The above Bill is referred to your Committee as the principal committee. Please note that the referral is subject to ratification by the Committee on Rules at its next meeting. It is recommended you schedule a public hearing at your earliest convenience.



SONNY LUJAN ORSINI

Attachment

TWENTY-THIRD GUAM LEGISLATURE
1995 (FIRST) Regular Session

Bill No.: 127

Introduced by:

J.M.S. Brown *JMB*
E. Barrett-Anderson *EBA*
A.C. Blaz *Blaz*
F.P. Camacho *FPC*
A. Lamorena *Lam*
C. Leon Guerrero *CLG*
M. Forbes *MFB*

AN ACT TO AMEND 4 GCA OF 8170(a) RELATIVE TO THE
RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE

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

2 Section 1. Title 4 Guam Code Annotated Section 8170 is hereby
3 amended to read:

4 "Section 8170. Members of the Legislature. The provisions of this
5 Chapter shall apply ~~to any person who has served as a member of the~~
6 ~~Legislature or who shall hereafter serve as such a member and any such~~
7 ~~person shall be considered a member of the Fund entitled to all the~~
8 ~~benefits of a member based upon the following additional provisions: to~~
9 any person who holds an elected office in the Guam Legislature:

10 a. Definitions and Rules of Construction. For purposes of
11 this Chapter, the following definitions and rules of constructions shall
12 apply to members of the Legislature:

13
14 1) ~~Legislature means the Guam Legislature created by~~
15 ~~the Organic Act of Guam;~~

16 1) Legislator means any person who holds an elected
17 office in the Guam Legislature.

18

1 2) Service as a member of the Legislature during
2 regular session for any one (1) calendar year shall be deemed a full year of
3 service, regardless of the length of the session;
4

5 3) Average annual salary for any member of the
6 Legislature shall mean the average of the three (3) highest annual salaries
7 received by a ~~member~~ Legislator during his years of credited service,
8 whether or not with the Legislature ~~or an amount equivalent to the annual~~
9 ~~compensation paid the Director of Administration at the time the Legislator~~
10 ~~applies for benefits, whichever is greater; provided, however, that~~
11 ~~effective January 1, 1978, whenever the annual compensation of the~~
12 ~~Director of Administration exceeds the annual compensation of the~~
13 ~~members of the Legislature, the contributions of the Legislators shall be~~
14 ~~based on the annual compensation of the Director of Administration. Any~~
15 Legislator holding office for the first time on the effective date of this act
16 shall, by written election filed with the Government of Guam Retirement
17 Fund within 30 days of enactment, of this law, elect whether or not to
18 continue under the benefits of the prior law. Any Legislator who at the
19 time of enactment of this law, has served in any prior term, or any
20 Legislator who is subsequently reelected into the Legislature after having
21 served in any prior term, shall be deemed vested under the prior law.
22

23 Section 2. This Act shall become effective nun pro tunc to January 2,
24 1995, and any election made pursuant to Section 1 shall take effect on the
25 same date. The Government of Guam Retirement Fund shall make any
26 necessary adjustments to comply with this statute.
27



GOVERNMENT OF GUAM RETIREMENT FUND
P.O. BOX 3-C
AGANA, GUAM 96910

Telephone No. 472-6626 or 8730
Facsimile No. 477-FUND



March 23, 1995

The Honorable Francis E. Santos
Chairman, Committee on Ways and Means
23rd Guam Legislature
155 Hesler Street
Agana, Guam 96910

Re: Bill No. 127, 23rd Guam Legislature

Dear Mr. Chairman:

My name is Michele B. Santos, Acting Director of the Retirement Fund, and I appear before you today to testify against the passage of Bill No. 127, on behalf of the Retirement Fund Division.

Bill No. 127 proposes to simplify the language of Section 8170 and attempts to right the inequity afforded only to the elite minority as to retirement credits. The Retirement Fund opposes any legislation that would allow Government of Guam employees, whether it be legislative, executive, or judicial branch, to be provided with an option to receive retirement credit for compensation not received or entitled to.

While Bill No. 127 proposes to simplify the language of Section 8170(a) and attempts to right the inequity only afforded the legislators, the proposed bill, as written, closes the door on all future elected legislators yet provides the current legislators and past legislators upon re-election, with a side-step avenue called "option" to continue receiving retirement credits to an amount equivalent to the annual compensation paid to the Director of Administration, which is higher than compensation paid the legislators.

The Retirement premises are based upon years of service, actual earnings and contributions paid. The language contained in this bill circumnavigates the actual compensation earned premises.

Once again, the Retirement Fund Division strongly opposes the passage of Bill No. 127, as written.

Bill No. 127
23rd Guam Legislature
March 23, 1995
Page 2

Thank you for granting the Retirement Fund the opportunity to appear before this Committee to present testimony in opposition of Bill No. 127.

Sincerely,



MICHELE B. SANTOS
Acting Director

BUREAU OF BUDGET AND MANAGEMENT RESEARCH

BRMS-E2

Bill No. 127

Amendatory Bill YES NO

Date Received 3/16/96

Date Reviewed 3/21/95

Department/Agency Affected: Retirement Fund

Department/Agency Head: Michelle Santos

Total FY Appropriation to Date: \$33,159,180

Bill Title (preamble): An act to amend 4 GCA of 8170(a) relative to the Retirement of members of the Guam Legislature.

Change in Law:

Bill's Impact on Present Program Funding: Increase Decrease Reallocation No Change

Bill is for: Operations Capital Improvement Other (Retirement Plan)

FINANCIAL/PROGRAM IMPACT

PROGRAM CATEGORY	ESTIMATED SINGLE-YEAR FUND REQUIREMENTS (Per Bill)		TOTAL
	GENERAL FUND	OTHER	
Legislature	- 0 -		- 0 -

FUND	ESTIMATED MULTI-YEAR FUND REQUIREMENTS (Per Bill)					
	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	See	Attached	Comments			
OTHER						
TOTAL						

FUNDS ADEQUATE TO COVER INTENT OF THE BILL? YES/NO-IF NO, ADD'L AMOUNT REQUIRED \$ N/A
 AGENCY/PERSON/DATE CONTACTED: N/A

FUND	ESTIMATED POTENTIAL MULTI-YEAR REVENUES					
	1st	2nd	3rd	4th	5th	TOTAL
GENERAL FUND	See	Attached	Comments			
OTHER						
TOTAL						

ANALYST: Tayo Jess Rivera DATE: 3/21/95 DIRECTOR: Joseph E. Rivera DATE: _____

FOOTNOTES: See attached comments.

Comments on Bill No.127:

While the bill's proposal appears to be administrative in nature, a fiscal impact nonetheless, would be eminent, in the form of reduction in contributions to the Government Retirement fund.

Actual impact would be premature at this time, since the Bill would make a legislator's membership in the retirement system, optional.

With regards to the de-linking of legislators' salary from that of the Director of Administration's (DOA) salary for the purposes of annuity computations, this would appear to be a wash between those members that would qualify for higher annuities (than a DOA Director-based annuity) and those that are limited to the legislature's current salaries.

Joseph Rivera
Acting

JR

TESTIMONY ON BILL NO. 127. "AN ACT TO AMEND 4 GCA OF 8170(A) RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM LEGISLATURE."

At the request of Ms. Rowena Perez, Chief of Staff of Senator Joanne Brown's office, I am submitting testimony in favor of this bill, although I would recommend different language to achieve the same or similar effects. The favorable effects of this bill are as follows:

1. ELIMINATES A DISCRIMINATORY PROVISION WHICH BENEFITS ONLY ONE CLASS OF EMPLOYEES.

The current provision, allowing members of the legislature to contribute to the Retirement Fund at the salary rate of the Director of Administration, rather than on the actual salary of the legislative Member or Senator, is highly discriminatory. I suspect, although I am not certain, that it violates ERISA provisions regarding highly compensated employees, as well certain IRS and DOL provisions regarding the same topic. Although governmental units are exempt from many of the provisions of ERISA, IRS and DoL, I believe that the trend is to bring more aspects of public pension plans within the reaches of these laws. At the very least, these laws and the case law emanating from them are persuasive in cases before the courts involving pensions. It appears that a law that provides for preferential treatment of one class of employees is facially in violation of the Equal Protection clause of the U.S. Constitution.

The practical effect of this provision is that it allows Members of the Legislature, who have served for three years or a term and a half, to use a salary base in the defined benefit formula or computation that would give them a higher annuity than they actually earned. In the case of those Members who have served in the government for at least 25 years, their annuity will be higher than their salary during their years of active membership. This is quite unusual.

2. OTHER METHODS ARE AVAILABLE .

Numerous systems attempt to provide special compensation for elective positions but this method is not one of them. It is highly unusual to index someone's contribution rate to someone else's salary. Other more logical methods would be to increase the actual salary of Members because the position is honorary, like a judge; or to shorten the period of service required before full retirement, like with judges or uniformed personnel. The analogy here is that one position is honorary and difficult to attain, since most people would agree that it is not easy to be elected once and even more difficult to repeat that feat many times over; while in the case of

uniformed personnel, the position is inherently hazardous; so both are rewarded by shortening the length of service required before full retirement, which is best defined as a percentage of set salary or average rather than the current language, without any reductions. Other deferred compensation programs can be offered to Members that would offer tax deferral and the potential to earn a second, possibly higher retirement annuity. The area of other deferred compensation programs that could be offered to GovGuam employees as additional incentive has heretofore been largely ignored or neglected. Some systems use these programs as an alternative to COLA.

3. ELIMINATES A BUDGETARY PROBLEM.

The funding requirement in a defined benefit plan is specified as a percentage of covered payroll or salary. When the legislative committee or budget officer draws up the legislative budget, if the actual salary of the Members is used in computing the benefits (e.g. retirement contributions - government and employees' shares), there will be a shortfall of close to a million dollars (plus or minus \$200,000) for the two year period or one term (using the figure of \$74,000 for the DoA Director's salary and \$55,000 for each senator's salary and using the rate of roughly 17.70% for government contribution rate and 9.5% for employee's share).

OTHER COMMENTS REGARDING THE SUGGESTED LANGUAGE:

1. If you repeal the definition of "legislature" and replace it with "Legislator", you have to go back and clean up the rest of the language in Section 8170 and any other section referring to the Members of the Legislature. Rather, I would add another word to be defined after the first definition of Legislature:

Section 8170. Members of the Legislature.

(a) (1) Legislature means the Guam legislature created by the Organic Act of Guam. "Member", "Senator", "Legislator" are synonyms referring to a person gaining a seat in the Legislature as a result of a general or special election.

I would add another word to define, "elected officials" to mean any person elected to a public office, except for a delegate to constitutional convention, a member of the Board of education or other elective Board or Commission, in accordance with an election duly held in the Territory; provided that the person receives compensation, pay or salary for such office.

The word elected official is used in 2 GCA 1120 (b).

As for the last part of the bill [definition of average annual salary and effective date of the act], I would like to submit my testimony at a later date, a few days after the hearing, so that I can work on different language and provide rationale.

Respectfully submitted by:



Sylvia L. G. Stake

Introduced

TWENTY-THIRD GUAM LEGISLATURE JUN 05 1995
1995 (FIRST) Regular Session

Bill No.: 266 (LS)

Introduced by:

J.M.S. Brown *MB*
E. Barrett-Anderson *EB*

AN ACT TO AMEND 4 GCA OF 8170(a)
RELATIVE TO THE RETIREMENT OF MEMBERS OF THE GUAM
LEGISLATURE

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

2

3 Section 1. Title 4 Guam Code Annotated Section 8170 is hereby
4 amended to read:

5

6 "Section 8170. Members of the Legislature. The provisions of this
7 Chapter shall apply to any person who has served as a member of the
8 Legislature or who shall hereafter serve as such a member and any such
9 person shall be considered a member of the Fund entitled to all the
10 benefits of a member based upon the following additional provisions:

11

12 a. Definitions and Rules of Construction. For purposes of
13 this Chapter, the following definitions and rules of constructions shall
14 apply to members of the Legislature:

15

16 1) Legislature means the Guam Legislature created by
17 the Organic Act of Guam. "Member", "Senator", "Legislator": are synonyms
18 in referring to a person gaining a seat in the Legislature as a result of a
general or special election.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

2) Service as a member of the Legislature during regular session for any one (1) calendar year shall be deemed a full year of service, regardless of the length of the session;

3) Average annual salary for any member of the Legislature shall mean the average of the three (3) highest annual salaries received by a ~~member~~ Legislator during his years of credited service, whether or not with the Legislature. ~~or an amount equivalent to the annual compensation paid the Director of Administration at the time the Legislator applies for benefits, whichever is greater; provided, however, that effective January 1, 1978, whenever the annual compensation of the Director of Administration exceeds the annual compensation of the members of the Legislature, the contributions of the Legislators shall be based on the annual compensation of the Director of Administration.~~

4) The Retirement Fund shall allow any past or incumbent Legislator who desires not to receive the benefits vested under Title 4 GCA Section 8170(a) to permanently and irrevocably divest himself thereof. An election to divest must be in writing and may be effective retroactive to dates appropriate to the Legislator. Nothing herein shall have the effect of divesting past or incumbent Senators of any rights without his or her consent.