



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

DEC 31 2002

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Suite 200  
130 Aspal Street  
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Bill No. 434 (COR), "AN ACT TO *REPEAL* AND *REENACT* § 8201 (k) AND TO *AMEND* §§ 8201(h), 8201(k), 8201(n), 8203, 8205, 8209(b), 8210(b), 8210(c) AND 8211, AND TO *ADD* ARTICLE 4 TO CHAPTER 8 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING SEPARATE WELFARE BENEFIT PLANS TO INCLUDE SURVIVOR DEATH BENEFITS AND PRE-RETIREMENT DISABILITY BENEFITS FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBERS, AND TO ENSURE PORTABILITY OF TRANSFER INCENTIVES", which was **signed** by the Governor into law on December 31, 2002 as **Public Law No. 26-162**.

Very truly yours,

Carl T. C. Gutierrez  
I Maga'Lahen Guåhan  
Governor of Guam

Attachment: copy attached for signed bill or overridden bill  
original attached for vetoed bill

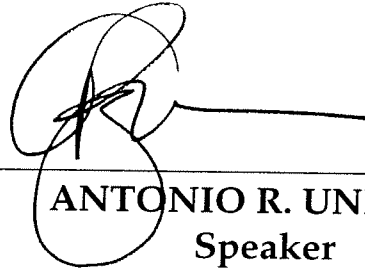
cc: The Honorable Antonio R. Unpingco  
Speaker

004


MINA'BENTE SAIS NA LIHESLATURAN GUAHAN  
2002 (SECOND) Regular Session

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


This is to certify that Bill No. 434 (COR), "AN ACT TO REPEAL AND REENACT § 8201 (k) AND TO AMEND §§ 8201(h), 8201(k), 8201(n), 8203, 8205, 8209(b), 8210(b), 8210(c) AND 8211, AND TO ADD ARTICLE 4 TO CHAPTER 8 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING SEPARATE WELFARE BENEFIT PLANS TO INCLUDE SURVIVOR DEATH BENEFITS AND PRE-RETIREMENT DISABILITY BENEFITS FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBERS, AND TO ENSURE PORTABILITY OF TRANSFER INCENTIVES," was on the 30<sup>th</sup> day of December, 2002, duly and regularly passed.

  
ANTONIO R. UNPINGCO  
Speaker

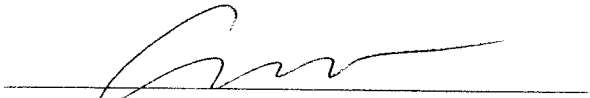
Attested:

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guahan* this 30 day of December, 2002,  
at 7:34 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

  
CARL T. C. GUTIERREZ  
*I Maga'lahaen Guahan*

Date: 12.31.02

Public Law No. 26-162

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2002 (SECOND) Regular Session**

**Bill No. 434 (COR)**

As amended.

Introduced by:

V. C. Pangelinan  
Mark Forbes  
L. A. Leon Guerrero  
J. F. Ada  
T. C. Ada  
F. B. Aguon, Jr.  
J. M.S. Brown  
E. B. Calvo  
F. P. Camacho  
M. C. Charfauros  
L. F. Kasperbauer  
K. S. Moylan  
A. L. G. Santos  
A. R. Unpingco  
J. T. Won Pat

**AN ACT TO REPEAL AND REENACT § 8201 (k) AND TO AMEND §§ 8201(h), 8201(k), 8201(n), 8203, 8205, 8209(b), 8210(b), 8210(c) AND 8211, AND TO ADD ARTICLE 4 TO CHAPTER 8 OF TITLE 4 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING SEPARATE WELFARE BENEFIT PLANS TO INCLUDE SURVIVOR DEATH BENEFITS AND PRE-RETIREMENT DISABILITY BENEFITS FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBERS, AND TO ENSURE PORTABILITY OF TRANSFER INCENTIVES.**

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

1           **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that  
2 Public Law Number 23-42, which established the Defined Contribution  
3 Retirement System for government of Guam employees whose  
4 employment commences on or after October 1, 1995, was enacted to  
5 provide a more flexible and self-directed pension plan for these employees  
6 and to protect and preserve the fiscal soundness of the existing Defined  
7 Benefit Plan, for the benefit of all present retirees and future retirees of the  
8 Defined Benefit Plan. Subsequently, *I Liheslaturan Guåhan* enacted Public  
9 Law Number 24-200 to provide the Defined Contribution Retirement  
10 System members with survivor death benefits and pre-retirement disability  
11 benefits, to be funded by employer, *not* employee, contributions, which  
12 was *not* established in Public Law Number 23-42, to ensure that these  
13 employee members are provided the same protection that were available to  
14 the Defined Benefit Plan members.

15           *I Liheslaturan Guåhan* finds that these survivor death benefits and pre-  
16 retirement disability benefits referred to as ancillary welfare benefits in  
17 Federal pension legislation, for members of the Defined Contribution  
18 Retirement System, which currently are provided in conjunction with the  
19 core retirement benefits provided under the Defined Contribution  
20 Retirement System, can be more efficiently and effectively administered  
21 and operated *if* these benefits were administered as two (2) separate plans,  
22 so as to simplify compliance with the tax code and regulations and  
23 amendments thereto.

1           **Section 2. Legislative Intent Regarding Ancillary Benefits.** It is  
2 the intent of *I Liheslaturan Guåhan* that the survivor death and pre-  
3 retirement disability benefits currently provided as ancillary benefits under  
4 the Defined Contribution Retirement System shall be repealed in Article 2  
5 of Chapter 8 of Title 4 of the Guam Code Annotated, and reestablished in  
6 separate employee welfare benefit plans created under a new Article 4,  
7 Chapter 8 of Title 4 of the Guam Code Annotated. These new employee  
8 welfare benefit plans shall include pre-retirement disability benefits and  
9 survivor death benefits to be provided *exclusively* to members of the  
10 Government of Guam Defined Contribution Retirement System (to the  
11 exclusion of members of the Government of Guam Retirement Fund –  
12 Defined Benefit Plan).

13           *I Liheslaturan Guåhan* intends that members of the Defined  
14 Contribution Retirement System should be provided with similar, although  
15 *not* equal, benefits to those offered under the Defined Benefit Plan, *except* to  
16 the extent that the terms and conditions related to providing such benefits,  
17 including eligibility, contributions, vesting, and distributions, are  
18 manifestly inapplicable because they cannot be converted intact under the  
19 terms and conditions in the Defined Contribution Retirement System Plan  
20 Document. The effect of this legislation is to redirect the appropriations  
21 currently used to fund the ancillary benefits in the Defined Contribution  
22 Retirement System in Article 2, Chapter 8 of Title 4 of the Guam Code  
23 Annotated, to provide continuation of coverage under new welfare benefit  
24 plans created under Article 4 of the same title.

1            *I Liheslaturan Guåhan* intends that the Board of Trustees of the  
2 Defined Contribution Retirement System, on behalf of the government of  
3 Guam and all of its employers, shall be authorized and empowered to take  
4 any and all required action, including, but *not* limited to, making decisions  
5 concerning plan design and adoption of plans, entering into contracts with  
6 third parties for actuarial, insurance, custodial, annuity, legal and  
7 administrative and other products and services, all of which shall be  
8 intended to implement the welfare benefit plans consistent with the intent  
9 of this legislation.

10           *I Liheslaturan Guåhan* intends that, upon implementation, all  
11 contributions to the Defined Contribution Retirement System for purposes  
12 of these ancillary benefits therein shall cease. Contributions already  
13 deposited into the Ancillary Benefit Account shall continue to be drawn  
14 upon *solely* for the payment of insurance premiums associated with the  
15 ancillary benefits provided thereunder, until entirely depleted, and under  
16 no circumstances shall such contributions already deposited into the  
17 Ancillary Benefit Account be reimbursed or reverted to any Employer. The  
18 Board shall adopt the existing pre-retirement disability benefit plan, or a  
19 survivor death benefit plan in the new Article 4. All contributions shall be  
20 redirected to the welfare benefit account to be drawn upon *solely* for the  
21 payment of insurance premiums and administrative expenses associated  
22 with the welfare benefits created under Article 4.

23           **Section 3. Legislative Intent Regarding Transfer Incentive**  
24 **Reserve.** It is the intent of *I Liheslaturan Guåhan* that the transfer

1 incentives created under Public Law Number 25-19, which were designed  
2 to encourage employees to transfer from the Defined Benefit Plan to the  
3 Defined Contribution Retirement System, should comply with the tax code  
4 and regulations, and be subject to the same distribution requirements of  
5 any other rollover contributions, in order to comply with, and to increase  
6 the administrative and portability options for retirement plans under the  
7 Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”).  
8 Accordingly, the employer’s contributions held in the transfer incentive  
9 reserve created under Public Law Number 25-19, as amended by Public  
10 Law Number 25-157, is fully and immediately vested and nonforfeitable,  
11 and distribution of such vested account balances shall be made in  
12 accordance with the provisions of the Defined Contribution Retirement  
13 System Plan Document, in compliance with EGTRRA.

14 **Section 4.** Section 8201(h) of Article 2, Chapter 8 of Title 4 of the  
15 Guam Code Annotated is hereby *amended* to read as follows:

16 “(h) ‘*Employer contribution*’ means an amount deposited into  
17 the member’s individual annuity account or, as applicable, ancillary  
18 benefit account on a periodic basis coinciding with the employee’s  
19 base payroll period by an employer from its own funds;”

20 **Section 5.** Section 8201(k) of Article 2, Chapter 8 of Title 4 of  
21 the Guam Code Annotated is hereby *repealed and reenacted* to read as  
22 follows:

23 “(k) ‘*Plan Document*’ means the Defined Contribution  
24 Retirement System Plan and Trust Agreement, as approved and

1 adopted by the Board of Trustees, pursuant to this Article, as from  
2 time to time amended."

3 **Section 6.** Section 8201(n) of Article 2, Chapter 8 of Title 4 of the  
4 Guam Code Annotated is hereby *amended* to read as follows:

5 "(n) '*Ancillary Benefit Account*' means a pool account  
6 established for all members to record the deposit of employer  
7 contributions, interest and/or other accumulations credited on behalf  
8 of all members, the balance of which shall be used *solely* for the  
9 payment of insurance premiums associated with the disability  
10 benefits to the extent they were offered under the Defined  
11 Contribution Retirement System. The Ancillary Benefit Account, as  
12 distinguished from the '*Account*,' as defined in § 8201(i), shall *not* be  
13 subject to any distributions to members as prescribed in § 8210, nor  
14 be included in any account statements as prescribed in § 8214.

15 Subsequent to the creation of the Welfare Benefit Account  
16 established under Article 4 of this Chapter, the Ancillary Benefit  
17 Account shall remain operative until all balances have been depleted  
18 for the payment of insurance premiums associated with the pre-  
19 retirement disability benefits and survivor death benefits offered  
20 under the Defined Contribution Retirement System. Under no  
21 circumstances shall contributions already deposited into the  
22 Ancillary Benefit Account be reimbursed or reverted to any  
23 Employer."



1           **Section 7.** Section 8203 of Article 2, Chapter 8 of Title 4 of the Guam  
2 Code Annotated is hereby *amended* to read as follows:

3                   **“Section 8203. Article to be Liberally Construed; Purpose.**

4                   The provisions of this Article shall be *liberally* construed so as to  
5 provide an individual account retirement system for any person who  
6 is employed in the government of Guam. The purpose of the Article  
7 is to provide a defined contribution retirement program which is  
8 fully funded on a current basis from employer and member  
9 contributions.”

10           **Section 8.** Section 8205 of Article 2, Chapter 8 of Title 4 of the Guam  
11 Code Annotated is hereby *amended* to read as follows:

12                   **“Section 8205. Powers and Duties of the Board of Trustees**  
13 **in the Administration of the Defined Contribution Retirement**  
14 **System.** The Board has all powers necessary to effectuate the  
15 purposes of this Article. The Board may contract with an insurance,  
16 annuity, mutual fund, or other qualified company or companies to  
17 administer the operations of the Defined Contribution Retirement  
18 System. In selecting such company or companies the Board shall take  
19 into account as its highest fiduciary duty, the proper safeguard and  
20 protection of the member and employer contributions, and the  
21 interest dividends, or other returns thereon. The Board shall  
22 promulgate rules regarding the proper investment of funds.

23                   The Board may borrow monies to effectuate the purposes of  
24 this Article, including, but *not* limited to, monies loaned from the

1 Government of Guam Retirement Fund for interim financing for  
2 survivor death insurance and pre-retirement disability insurance  
3 premiums to the extent that they were offered under the Defined  
4 Contribution Retirement System.”

5 **Section 9.** Section 8209(b) of Article 2, Chapter 8 of Title 4 of  
6 the Guam Code Annotated is hereby *amended* to read as follows:

7 “(b) Furthermore, *prior* to the adoption of welfare benefit  
8 plans for pre-retirement disability and survivor death benefits in  
9 Article 4 of this Title, each participating employer also shall make a  
10 contribution to the Ancillary Benefit Account for the *sole* purpose of  
11 financing pre-retirement disability insurance and survivor death  
12 insurance premiums, in an amount *equal* to a designated percentage  
13 of such member's base pay, the percentage to be determined on a  
14 quarterly basis by the Board within its sole discretion, in an amount  
15 *not to exceed* eight-tenths of one percent (0.8%) of each member's base  
16 pay.

17 Subsequent to the adoption of welfare benefit plans for pre-  
18 retirement disability and survivor death benefits in Article 4 of this  
19 Title, such employer contributions herein shall cease, and those  
20 contributions deposited into the Ancillary Benefit Account shall  
21 continue to be drawn upon *solely* for the payment of insurance  
22 premiums associated with the ancillary benefits provided hereunder,  
23 until entirely depleted, and under no circumstances shall such

1 contributions already deposited into the Ancillary Benefit Account be  
2 reimbursed or reverted to any Employer.”

3 **Section 10.** Subsection 8210(b) of Article 2, Chapter 8 of Title 4  
4 of the Guam Code Annotated is hereby *amended* to read as follows:

5 “(b) A member's interest in the balance of that member’s  
6 Employer Contribution Account described in § 8209 shall be fully  
7 and immediately vested and nonforfeitable upon the occurrence of  
8 any one (1) or more of the following events:

9 (1) the member's attainment of normal retirement age,  
10 as defined in the Defined Contribution Retirement System Plan  
11 Document while the member is employed by the government;

12 (2) the member's death while the member is employed  
13 by the government;

14 (3) the member's disability, as defined in the Defined  
15 Contribution Retirement System Plan Document, while the  
16 member is employed by the government; *or*

17 (4) the termination of all or a portion of the Defined  
18 Contribution Retirement System, including the Employer  
19 Contribution Account.”

20 **Section 11.** Subsection 8210(c) of Article 2, Chapter 8 of Title 4  
21 of the Guam Code Annotated is hereby *amended* to read as follows:

1                   “(c) In addition to the events described in Subsection  
2                   (b), a member's interest in the balance of that member’s  
3                   Employer Contribution Account described in § 8209 shall be  
4                   fully and immediately vested and nonforfeitable upon the  
5                   member's completion of five (5) or more years of employment  
6                   pursuant to § 8201(e), and as described in the Defined  
7                   Contribution Retirement System Plan Document.”

8                   **Section 12.**           Section 8211 of Article 2, Chapter 8 of Title 4 of the  
9                   Guam Code Annotated is hereby *amended* to read as follows:

10                   “(a) **Normal and Early Retirement.**    At any time after a  
11                   member reaches the early retirement age of fifty-five (55) years and  
12                   has completed five (5) years of employment for vesting purposes, or  
13                   reaches the normal retirement age of sixty-five (65) years, that person  
14                   may elect to receive retirement benefits by notifying the Board, or its  
15                   designee, in writing of such intention *not less than sixty (60) days prior*  
16                   to the effective date of retirement. Retirement payments shall  
17                   commence as soon as practicable after retirement in accordance with  
18                   the Defined Contribution Retirement System Plan Document.

19                   (b) **Disability.**           A member may elect to receive a  
20                   distribution of the member’s vested account balances as soon as  
21                   practicable after termination of employment due to disability as  
22                   defined in the Defined Contribution Retirement System Plan  
23                   Document; *provided*, that any distribution of the member’s  
24                   vested account balances will render the member ineligible to

1 receive any pre-retirement benefits provided under any long-  
2 term disability insurance policy issued pursuant to § 8213 or  
3 Article 4 of this Title. In the event of disability after termination  
4 of employment, a member may elect to receive a distribution of  
5 that member's vested account as soon as practicable after  
6 certification of said disability in accordance with the Defined  
7 Contribution Retirement System Plan Document.

8 (c) **Death.** In the event of a member's death,  
9 distribution of the member's vested account balances to the  
10 member's beneficiaries shall be made as soon as practicable  
11 after death in accordance with the Defined Contribution  
12 Retirement System Plan Document.

13 (d) **Other Termination of Employment.** In the  
14 event of termination of employment for reasons other than  
15 retirement, disability or death, a member may elect to receive a  
16 distribution of the member's vested account balances as soon as  
17 practicable after termination of employment."

18 **Section 13.** Article 4 is hereby *added* to Chapter 8 of Title 4 of  
19 the Guam Code Annotated to read as follows:

20 **"ARTICLE 4.**

21 **WELFARE BENEFIT PLANS.**

22 **Section 8401. Definitions.** As used in this Article,  
23 *unless* the context otherwise requires:

24 (a) '*Base Pay*' means an employee's stated rate of pay;

1                   (b) *'Board'* means the Board of Trustees of the  
2 Government of Guam Retirement Fund, which also is  
3 responsible for the direction and operation of the affairs and  
4 business of the Defined Contribution Retirement System. Title  
5 to all assets in the welfare benefit plans created herein shall be  
6 held in the name of the Board for the benefit of participants in  
7 the welfare benefit plans herein;

8                   (c) *'Defined Contribution Retirement System'* means the  
9 Government of Guam Defined Contribution Retirement System  
10 created by Article 2 of Chapter 8 of Title 4 of the Guam Code  
11 Annotated;

12                   (d) *'Employer contribution'* means an amount deposited  
13 into a welfare benefit account, on a periodic basis coinciding  
14 with the employee's base payroll period, by an employer from  
15 its own funds, the balances of which shall be used *solely* for the  
16 payment of insurance premiums associated with the welfare  
17 benefit plans established hereunder, including pre-retirement  
18 disability and survivor death benefits offered to members of the  
19 Defined Contribution Retirement System;

20                   (e) *'Employer'* means each and every line department or  
21 agency of the Executive Branch; every autonomous and semi-  
22 autonomous agency or instrumentality; public corporations;  
23 every educational institution, whether secondary or post

1 secondary; the Judicial Branch; the Legislative Branch; Public  
2 Defender Corporation; and every public entity hereafter to be  
3 created by law, within Guam which has employed, or employs,  
4 a member;

5 (f) *'Member'* means any member of the Defined  
6 Contribution Retirement System in accordance with Article 2,  
7 Chapter 8 of Title 4 of the Guam Code Annotated;

8 (g) *'Welfare Benefit Account'* means an employee welfare  
9 benefit account created and established by this Article as a pool  
10 account established for all members to record the deposit of  
11 employer contributions, interest and other accumulations  
12 credited on behalf of all members, the balances of which shall  
13 be used *solely* for the payment of insurance premiums and  
14 administrative expenses associated with the welfare benefits,  
15 including pre-retirement disability and survivor death benefits  
16 offered to members of the Defined Contribution Retirement  
17 System;

18 (h) *'Welfare benefit plan'* means any employee welfare  
19 benefit plan created and established by this Article, including  
20 plans providing for pre-retirement disability benefits or  
21 survivor death benefits, which shall be offered to members of  
22 the Defined Contribution Retirement System, as provided in  
23 the contracts negotiated with insurance providers.

1           **Section 8402. Welfare Benefit Plans Created and**  
2 **Established; Body Corporate.** The Welfare Benefit Plans for  
3 Defined Contribution Retirement System members as described  
4 herein shall be created and established to provide employee welfare  
5 benefits as reasonable and necessary to fulfill the purposes of this  
6 Article. The business of each welfare benefit plan created hereunder  
7 shall constitute a body corporate and all business of each welfare  
8 benefit plan shall be transacted in the name of the Government of  
9 Guam Defined Contribution Retirement System for the benefit of its  
10 members.

11           **Section 8403. Article to be Liberally Construed; Purpose.**  
12 The provisions of this Article shall be *liberally* construed so as to  
13 provide, to the extent practicable, similar, although *not* necessarily  
14 equal, pre-retirement disability and survivor death benefits as those  
15 provided to members of the Defined Benefit Plan, and to provide  
16 other employee welfare benefits to members of the Defined  
17 Contribution Retirement System, which benefits are fully funded on a  
18 current basis from employer contributions, with the objective of  
19 encouraging qualified personnel to enter and remain in the service of  
20 the government of Guam, thus effecting economy and efficiency in  
21 the administration of the government.

22           **Section 8404. Administration of the Welfare Benefit Plans.**  
23 The Board of Trustees created pursuant to Article 1 of Chapter 8 of  
24 this Title, and authorized under Article 2 of Chapter 8 of this Title,



1 shall administer the welfare benefit plans for members of the  
2 Government of Guam Defined Contribution Retirement System. The  
3 board may sue and be sued, contract and be contracted with and  
4 conduct all the business of the welfare benefit plans.

5 **Section 8405. Powers and Duties of the Board of Trustees.**

6 The Board has all powers necessary to effectuate the purposes of this  
7 Article. The Board is authorized and empowered to take any and all  
8 required action, including, but *not* limited to, making decisions  
9 concerning plan design and adoption of the plan, entering into  
10 contracts with third parties for actuarial, insurance, custodial,  
11 annuity, legal and administrative, and other products and services,  
12 all of which shall be intended to implement the welfare benefit plans  
13 consistent with the intent of this Article. The Board shall authorize  
14 the company or companies with whom it contracts to make available  
15 the welfare benefits under the plans adopted herein. The Board may  
16 borrow monies to effectuate the purposes of this Article, including,  
17 but *not* limited to, monies loaned from the Government of Guam  
18 Retirement Fund for interim financing for survivor death insurance  
19 and pre-retirement disability insurance premiums offered to  
20 members of the Defined Contribution Retirement System.

21 **Section 8406. Participation in the Welfare Benefit Plans.**

22 Members of the Defined Contribution Retirement System are eligible  
23 to participate in the welfare benefit plans established hereunder.

24 **Section 8407. Employer's Contributions.**

1           (a) Each participating employer shall make a  
2 contribution to the applicable welfare benefit account for the  
3 *sole* purpose of financing insurance premiums and  
4 administrative expenses related to the welfare benefit plans  
5 established under this Article, including pre-retirement  
6 disability insurance and survivor death insurance, in aggregate  
7 amounts equal to a designated percentage of such member's  
8 base pay, the percentage to be determined on a quarterly basis  
9 by the Board within its sole discretion, in an aggregate amount  
10 *not* to exceed eight-tenths of one percent (0.8%) of each  
11 member's base pay.

12           (b) Each participating employer shall ensure that its  
13 employer contributions are made within five (5) working days.  
14 In the case of an officer or an employee of the government of  
15 Guam, any unpaid employer contribution shall be a  
16 government debt, contracted as a result of a casual deficit in the  
17 government's revenues, to be accorded preferred status over  
18 other expenditures."

19       **Section 14. Severability.** *If* any provision of this Act or its  
20 application to any person or circumstance is found to be invalid or contrary  
21 to law, such invalidity shall *not* affect other provisions or applications of  
22 this Act which can be given effect without the invalid provisions or  
23 application, and to this end the provisions of this Act are severable.

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 12/30/02

## VOTING SHEET

Bill No. 434 (COR)

Resolution No. \_\_\_\_\_

Question: \_\_\_\_\_

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.					✓
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.					✓
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.					—
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL                      12    0    0    0    3

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

p.l. 200-162

DEC 26 2002

Speaker Antonio R. Unpingco  
I Mina' Bente Sais Na Liheslaturan Guåhan  
155 Hesler Street  
Hagåtña, Guam 96910

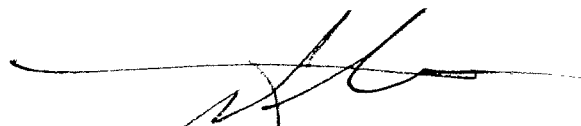
Dear Mr. Speaker:

The Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs, to which Bill No. 434, was referred, wishes to report its findings and recommendations **TO DO PASS BILL NO. 434**: "AN ACT TO AMEND SECTION 8201, 8203, 8205, 8209, 8210, AND 8211 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW ARTICLE 4 TO CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING SEPARATE WELFARE BENEFIT PLANS TO INCLUDE SURVIVOR DEATH BENEFITS FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBERS; AND TO AMEND SECTION 8211 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO ENSURING PORTABILITY OF TRANSFER INCENTIVES."

The voting record is as follows:

<b>TO PASS</b>	<u>5</u>
<b>NOT TO PASS</b>	<u>0</u>
<b>ABSTAIN</b>	<u>0</u>
<b>TO PLACE IN INACTIVE FILE</b>	<u>0</u>
<b>TO REPORT OUT</b>	<u>2</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you and si Yu'os ma'ase for your attention to this matter.

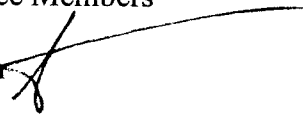
  
**MARK FORBES**

Attachments

DEC 26 2002

**MEMORANDUM**

**TO:** Committee Members

**FROM:** Chairman 

**SUBJECT:** Committee Report- BILL NO. 434: "An Act To Amend Section 8201, 8203, 8205, 8209, 8210, And 8211 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotated And To Add A New Article 4 To Chapter 8, Title 4 Of The Guam Code Annotated Relative To Establishing Separate Welfare Benefit Plans To Include Survivor Death Benefits For Defined Contribution Retirement System Members; And To Amend Section 8211 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotaed Relative To Ensuring Portability Of Transfer Incentives."

Transmitted herewith for your information and action is the report on Bill No. 434, from the Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs.

This memorandum is accompanied by the following:

1. Committee Voting Sheet
2. Committee Report
3. Bill No. 434
4. Public Hearing Sign-in Sheet
5. Fiscal Note/Fiscal Note Waiver

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated.

Should you have any questions regarding the report or accompanying documents, please do not hesitate to contact me.

Thank you and si Yu'os ma'ase.

**MARK FORBES**

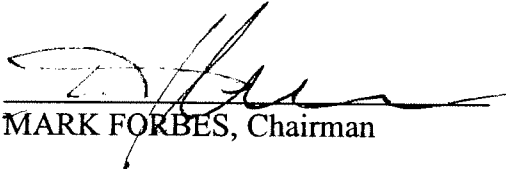
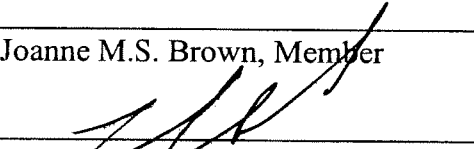
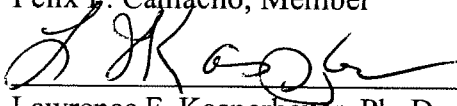
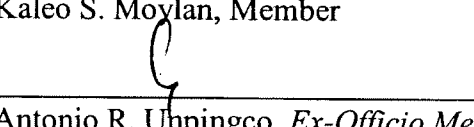
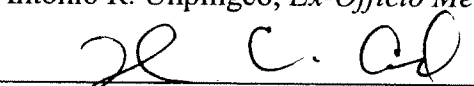
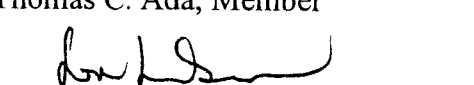
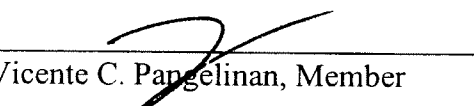
Attachments

**Committee on Rules, General Governmental Operations, Reorganization and Reform, and Federal,  
Foreign and General Affairs**

**I Mina' Bente Sais Na Liheslaturan Guåhan**

**Voting Record**

BILL NO. 434: "An Act To Amend Section 8201, 8203, 8205, 8209, 8210, And 8211 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotated And To Add A New Article 4 To Chapter 8, Title 4 Of The Guam Code Annotated Relative To Establishing Separate Welfare Benefit Plans To Include Survivor Death Benefits For Defined Contribution Retirement System Members; And To Amend Section 8211 Of Article 2, Chapter 8, Title 4 Of The Guam Code Annotaed Relative To Ensuring Portability Of Transfer Incentives."

	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>TO ABSTAIN</u>	<u>INACTIVE FILE</u>	<u>REPORT OUT</u>
 MARK FORBES, Chairman	✓				
Joseph F. Ada, Member					
Joanne M.S. Brown, Member					
 Eddie B. Carvo, Member					✓
Felix B. Camacho, Member					
 Lawrence F. Kasperbauer, Ph. D., Member					X
Kaleo S. Moylan, Member					
 Antonio R. Unpingco, <i>Ex-Officio</i> Member	✓				
 Thomas C. Ada, Member	✓				
 Lou A. Leon Guerrero, Member	✓				
 Vicente C. Pangelinan, Member	✓				

12/26/02  
Zed Leon

3rd  
12/26/02

Introduced

MS 18

MINA BENTE SAIS NA LIHESLATURAN GUAHAN  
2002 (SECOND) Regular Session

Rec. 2:30 pm

Bill No. 434(COR)

Introduced by:

v.c. pangelinan  
M. Forbes  
L.A. Leon Guerrero *ads.*

AN ACT TO AMEND SECTIONS 8201, 8203, 8205, 8209, 8210, and 8211 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW ARTICLE 4 TO CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING SEPARATE WELFARE BENEFIT PLANS TO INCLUDE SURVIVOR DEATH BENEFITS AND PRE-RETIREMENT DISABILITY BENEFITS FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBERS; AND TO AMEND SECTION 8211 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO ENSURING PORTABILITY OF TRANSFER INCENTIVES

BE IT ENACTED BY THE PEOPLE OF GUAM:

SECTION 1. Legislative Findings. *I Liheslaturan Guahan* finds that Public Law Number 23-42, which established the Defined Contribution Retirement System for government of Guam employees whose employment commences on or after October 1, 1995 was enacted to provide a more flexible and self-directed pension plan for the these employees and to protect and preserve the fiscal soundness of the existing Defined Benefit Plan, for the benefit of all present retirees and future retirees of the Defined Benefit Plan. Subsequently, *I Liheslaturan Guahan* enacted Public Law Number 24-200 to provide the Defined Contribution

1 Retirement System members with survivor death benefits and pre-  
2 retirement disability benefits, to be funded by employer, not employee,  
3 contributions which was not established in Public Law 23-42 to ensure that  
4 these employee members are provided the same protection that were  
5 available to the Defined Benefit Plan members

6 *I Liheslaturan Guahan* finds that these survivor death benefits and  
7 pre-retirement disability benefits referred to as ancillary welfare benefits in  
8 federal pension legislation, for members of the Defined Contribution  
9 Retirement System, which currently are provided in conjunction with the  
10 core retirement benefits provided under the Defined Contribution  
11 Retirement System, can be more efficiently and effectively administered  
12 and operated if these benefits were administered as two separate plans, so  
13 as to simplify compliance with the tax code and regulations and  
14 amendments thereto.

15 **SECTION 2. Legislative Intent Regarding Ancillary Benefits.** It is  
16 the intent of *I Liheslaturan Guahan* that the survivor death and pre-  
17 retirement disability benefits currently provided as ancillary benefits under  
18 the Defined Contribution Retirement System shall be repealed in Article 2,  
19 Chapter 8, Title 4 of the Guam Code Annotated, and re-established in  
20 separate employee welfare benefit plans created under a new Article 4,  
21 Chapter 8, Title 4 of the Guam Code Annotated. These new employee  
22 welfare benefit plans shall include pre-retirement disability benefits and  
23 survivor death benefits to be provided exclusively to members of the  
24 Government of Guam Defined Contribution Retirement System (to the  
25 exclusion of members of the Government of Guam Retirement Fund –



1 Defined Benefit Plan). *I Liheslaturan Guahan* intends that members of the  
2 Defined Contribution Retirement System should be provided with similar,  
3 although not equal, benefits to those offered under the Defined Benefit  
4 Plan, except to the extent that the terms and conditions related to providing  
5 such benefits (including eligibility, contributions, vesting, and  
6 distributions) are manifestly inapplicable because they cannot be converted  
7 intact under the terms and conditions in the Defined Contribution  
8 Retirement System Plan Document. The effect of this legislation is to  
9 redirect the appropriations currently used to fund the ancillary benefits in  
10 the Defined Contribution Retirement System in Article 2, Chapter 8, Title 4  
11 of the Guam Code Annotated, to provide continuation of coverage under  
12 new welfare benefit plans created under Article 4 of the same title.

13 *I Liheslaturan Guahan* intends that the Board of Trustees of the  
14 Defined Contribution Retirement System, on behalf of the Government of  
15 Guam and all of its employers, shall be authorized and empowered to take  
16 any and all required action, including, but not limited to, making decisions  
17 concerning plan design and adoption of plans, entering into contracts with  
18 third parties for actuarial, insurance, custodial, annuity, legal and  
19 administrative and other products and services, all of which shall be  
20 intended to implement the welfare benefit plans consistent with the intent  
21 of this legislation.

22 *I Liheslaturan Guahan* intends that, upon implementation of, all  
23 contributions to the Defined Contribution Retirement System for purposes  
24 of these ancillary benefits therein shall cease. Contributions already  
25 deposited into the Ancillary Benefit Account shall continue to be drawn

1 upon solely for the payment of insurance premiums associated with the  
2 ancillary benefits provided thereunder, until entirely depleted, and under  
3 no circumstances shall such contributions already deposited into Ancillary  
4 Benefit Account be reimbursed or reverted to any Employer. The Board  
5 shall adopt the existing pre-retirement disability benefit plan, or a survivor  
6 death benefit plan in the new Article 4. All contributions shall be redirected  
7 to the welfare benefit account to be drawn upon solely for the payment of  
8 insurance premiums and administrative expenses associated with the  
9 welfare benefits created under Article 4.

10 **SECTION 3. Legislative Intent Regarding Transfer Incentive**

11 **Reserve.** It is the intent of *I Liheslaturan Guahan* that the transfer incentives  
12 created under Public Law Number 25-19, which were designed to  
13 encourage employees to transfer from the Defined Benefit Plan to the  
14 Defined Contribution Retirement System, should comply with the tax code  
15 and regulations, and be subject to the same distribution requirements of  
16 any other rollover contributions, in order to comply with, and to increase  
17 the administrative and portability options for retirement plans under the  
18 Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”).  
19 Accordingly, the employer’s contributions held in the transfer incentive  
20 reserve created under Public Law Number 25-19, as amended by Public  
21 Law Number 25-157, is fully and immediately vested and nonforfeitable,  
22 and distribution of such vested account balances shall be made in  
23 accordance with the provisions of the Defined Contribution Retirement  
24 System Plan Document, in compliance with EGTRRA.

1           **Section 4.** Section 8201(h), Article 2, Chapter 8, Title 4 of the Guam  
2 Code Annotated, is hereby amended as follows:

3                   “(h) Employer contribution means an amount  
4                   deposited into the member's individual annuity  
5                   account or, as applicable, ancillary benefit account  
6                   on a periodic basis coinciding with the employee's  
7                   base payroll period by an employer from its own  
8                   funds;”

9           **Section 5.** Section 8201(k), Article 2, Chapter 8 of Title 4 of the Guam  
10 Code Annotated, is hereby repealed. A new definition of Plan Document is  
11 added to read as follows:

12                   “(k) Plan Document means the Defined  
13                   Contribution Retirement System Plan and Trust  
14                   Agreement, as approved and adopted by the Board  
15                   of Trustees, pursuant to this Article, as from time to  
16                   time amended.”

17           **Section 6.** Section 8201(n), Article 2, Chapter 8 of Title 4 of the Guam  
18 Code Annotated, is hereby amended to read as follows:

19                   “(n) Ancillary Benefit Account means a pool  
20                   account established for all members to record the  
21                   deposit of employer contributions, interest and/or  
22                   other accumulations credited on behalf of all  
23                   members, the balance of which shall be used solely  
24                   for the payment of insurance premiums associated  
25                   with the disability benefits to the extent they were

1 offered under the Defined Contribution Retirement  
2 System. The Ancillary Benefit Account, as  
3 distinguished from the "Account" as defined in §  
4 8201(i), shall not be subject to any distributions to  
5 members as prescribed in § 8210, nor be included in  
6 any account statements as prescribed in § 8214.

7 Subsequent to the creation of the Welfare Benefit  
8 Account established under Article 4 of this Chapter,  
9 the Ancillary Benefit Account shall remain  
10 operative until all balances have been depleted for  
11 the payment of insurance premiums associated with  
12 the pre-retirement disability benefits and survivor  
13 death benefits offered under the Defined  
14 Contribution Retirement System. Under no  
15 circumstances shall contributions already deposited  
16 into the Ancillary Benefit Account be reimbursed or  
17 reverted to any Employer."

18 **Section 7.** Section 8203, Article 2, Chapter 8, Title 4 of the Guam  
19 Code Annotated, is hereby amended to read as follows:

20 **"§ 8203. Article to be Liberally construed;**

21 **Purpose.**

22 The provisions of this Article shall be liberally  
23 construed so as to provide an individual account  
24 retirement system for any person who is employed  
25 in the government of Guam. The purpose of the

1 Article is to provide a defined contribution  
2 retirement program which is fully funded on a  
3 current basis from employer and member  
4 contributions. ~~In addition, the purpose of this~~  
5 ~~Article is to provide pre-retirement ancillary~~  
6 ~~benefits in the form of disability benefits for~~  
7 ~~members, and survivor death benefits for the~~  
8 ~~beneficiaries of such members, which benefits are~~  
9 ~~fully funded on a current basis from employer~~  
10 ~~contributions, with the objective of encouraging~~  
11 ~~qualified personnel to enter and remain in the~~  
12 ~~service of the government of Guam, thus effecting~~  
13 ~~economy and efficiency in the administration of the~~  
14 ~~government."~~

15 **Section 8.** Section 8205 of Article 2, Chapter 8 of Title 4 of the Guam  
16 Code Annotated, is hereby amended to read as follows:

17 **"§ 8205. Powers and duties of the Board of**  
18 **Trustees in the administration of the Defined**  
19 **Contribution Retirement System.** The Board has  
20 all powers necessary to effectuate the purposes of  
21 this Article. The Board may contract with an  
22 insurance, annuity, mutual fund, or other qualified  
23 company or companies to administer the operations  
24 of the defined contribution system. In selecting such  
25 company or companies the Board shall take into

1 account as its highest fiduciary duty, the proper  
2 safeguard and protection of the member and  
3 employer contributions and the interest dividends,  
4 or other returns thereon. The Board shall  
5 promulgate rules regarding the proper investment  
6 of funds. The Board may borrow monies to  
7 effectuate the purposes of this Article, including,  
8 but not limited to, monies loaned from the  
9 Government of Guam Retirement Fund for interim  
10 financing for survivor death insurance and pre-  
11 retirement disability insurance premiums to the  
12 extent that they were offered under the Defined  
13 Contribution Retirement System.”

14 **Section 9.** Subsection 8209(b) of Article 2, Chapter 8 of Title 4 of the  
15 Guam Code Annotated, is hereby amended to read as follows:

16 “(b) Furthermore, prior to the adoption of welfare  
17 benefit plans for pre-retirement disability and  
18 survivor death benefits in Article 4 of this Title, each  
19 participating employer also shall make a  
20 contribution to the Ancillary Benefit Account for the  
21 sole purpose of financing pre-retirement disability  
22 insurance and survivor death insurance premiums,  
23 in an amount equal to a designated percentage of  
24 such member's base pay, the percentage to be  
25 determined on a quarterly basis by the Board within

1 its sole discretion, in an amount not to exceed eight-  
2 tenths of one percent (0.8%) of each member's base  
3 pay. Subsequent to the adoption of welfare benefit  
4 plans for pre-retirement disability and survivor  
5 death benefits in Article 4 of this Title, such  
6 employer contributions herein shall cease, and  
7 those contributions deposited into the Ancillary  
8 Benefit Account shall continue to be drawn upon  
9 solely for the payment of insurance premiums  
10 associated with the ancillary benefits provided  
11 hereunder, until entirely depleted, and under no  
12 circumstances shall such contributions already  
13 deposited into the Ancillary Benefit Account be  
14 reimbursed or reverted to any Employer."

15 **Section 10.** Subsection 8210(b) of Article 2, Chapter 8 of Title 4 of the  
16 Guam Code Annotated, is hereby amended to read as follows:

17 "(b) A member's interest in the balance of his  
18 Employer Contribution Account described in § 8209  
19 shall be fully and immediately vested and  
20 nonforfeitable upon the occurrence of any one (1) or  
21 more of the following events:

22 (1) the member's attainment of normal  
23 retirement age as defined in the Defined  
24 Contribution Retirement System Plan and Trust

1           ~~Agreement~~ Document while the member is  
2           employed by the government;

3                   (2) the member's death while the member is  
4           employed by the government;

5                   (3) the member's disability as defined in the  
6           Defined Contribution Retirement System Plan ~~and~~  
7           ~~Trust Agreement~~ Document while the member is  
8           employed by the government; or

9                   (4) the termination of all or a portion of the  
10          Defined Contribution Retirement System, including  
11          the Employer Contribution Account.”

12          **Section 11.** Subsection 8210(c) of Article 2, Chapter 8 of Title 4 of the  
13          Guam Code Annotated, is hereby amended to read as follows:

14                   “(c) In addition to the events described in  
15          Subsection (b), a member's interest in the balance of  
16          his Employer Contribution account described in §  
17          8209 shall be fully and immediately vested and  
18          nonforfeitable upon the member's completion of  
19          five (5) or more years of employment pursuant to  
20          Subsection (e) of § 8201 and as described in the  
21          Defined Contribution Retirement System Plan ~~and~~  
22          ~~Trust Agreement~~ Document.”

23          **Section 12.** Section 8211 of Article 2, Chapter 8 of Title 4 of the Guam  
24          Code Annotated, is hereby amended to read as follows:



1                   “(a) Normal and Early Retirement. At any  
2                   time after a member reaches the early retirement  
3                   age of fifty-five (55) years and has completed five  
4                   (5) years of employment for vesting purposes, or  
5                   reaches the normal retirement age of sixty-five (65),  
6                   that person may elect to receive retirement benefits  
7                   by notifying the Board or its designee in writing of  
8                   such intention not less than sixty (60) days prior to  
9                   the effective date of retirement. Retirement  
10                  payments shall commence as soon as practicable  
11                  after retirement in accordance with the Defined  
12                  Contribution Retirement System Plan ~~and Trust~~  
13                  Agreement Document.

14                  (b) Disability. A member may elect to receive  
15                  a distribution of the member's vested account  
16                  balances as soon as practicable after termination of  
17                  employment due to ~~permanent and total~~ disability  
18                  as defined in the Defined Contribution Retirement  
19                  System Plan Document; provided that any  
20                  distribution of the member's vested account  
21                  balances will render the member ineligible to  
22                  receive any pre-retirement benefits provided under  
23                  any long-term disability insurance policy issued  
24                  pursuant to § 8213 or Article 4 of this Title. In the  
25                  event of ~~permanent and total~~ disability after

1 termination of employment, a member may elect to  
2 receive a distribution of that member's vested  
3 account as soon as practicable after certification of  
4 said disability in accordance with the Defined  
5 Contribution Retirement System Plan ~~and Trust~~  
6 ~~Agreement~~ Document.

7 (c) Death. In the event of a member's death,  
8 distribution of the member's vested account  
9 balances to the member's beneficiaries shall be  
10 made as soon as practicable after ~~retirement~~ death  
11 in accordance with the Defined Contribution  
12 Retirement System Plan ~~and Trust Agreement~~  
13 Document.

14 (d) Other Termination of Employment. In the  
15 event of termination of employment for reasons  
16 other than retirement, disability or death, a member  
17 may elect to receive a distribution of the member's  
18 vested account balances as soon as practicable after  
19 termination of employment; ~~provided, that the~~  
20 ~~distribution of vested amounts in the member's~~  
21 ~~Employer Contribution Account and Transfer~~  
22 ~~Incentive Reserve shall be distributed upon either:~~  
23 ~~(1) the member's attainment of early or normal~~  
24 ~~retirement age in accordance with the Defined~~  
25 ~~Contribution Retirement System Plan and Trust~~

1           ~~Agreement; (2) disability as described in Subsection~~  
2           ~~(b); or (3) death as described in Subsection (c)."~~

3           **Section 13.** Article 4 is hereby added to Chapter 8 of Title 4 of the  
4 Guam Code Annotated to read as follows:

5                           **"ARTICLE 4. WELFARE BENEFIT PLANS**

6           **§8401. Definitions.** As used in this article, unless  
7 the context otherwise requires:

8                   (a)    Base Pay means an employee's stated  
9 rate of pay;

10                   (b)   Board means the Board of Trustees of  
11 the government of Guam Retirement Fund, which  
12 also is responsible for the direction and operation of  
13 the affairs and business of the Defined Contribution  
14 Retirement System. Title to all assets in the welfare  
15 benefit plans created herein shall be held in the  
16 name of the Board for the benefit of participants in  
17 the welfare benefit plans herein;

18                   (c)   Defined Contribution Retirement  
19 System means the Government of Guam Defined  
20 Contribution Retirement System created by Article  
21 2 of Chapter 8 of Title 4 of the Guam Code  
22 Annotated;

23                   (d)   Employer contribution means an  
24 amount deposited into a welfare benefit account, on

1 a periodic basis coinciding with the employee's base  
2 payroll period, by an employer from its own funds,  
3 the balances of which shall be used solely for the  
4 payment of insurance premiums associated with the  
5 welfare benefit plans established hereunder,  
6 including pre-retirement disability and survivor  
7 death benefits offered to members of the Defined  
8 Contribution Retirement System;

9 (e) Employer means each and every line  
10 department or agency of the Executive Branch,  
11 every autonomous and semi-autonomous agency or  
12 instrumentality, public corporations, every  
13 educational institution whether secondary or post  
14 secondary, the Judicial Branch, the Legislative  
15 Branch, Public Defender Corporation, and every  
16 public entity hereafter to be created by law, within  
17 the territory of Guam which has employed or  
18 employs a member;

19 (f) Member means any member of the  
20 Defined Contribution Retirement System in  
21 accordance with Article 2, Chapter 8, Title 4 of the  
22 Guam Code Annotated;

23 (g) Welfare benefit account means an  
24 employee welfare benefit account created and

1 established by this Article as a pool account  
2 established for all members to record the deposit of  
3 employer contributions, interest and other  
4 accumulations credited on behalf of all members,  
5 the balances of which shall be used solely for the  
6 payment of insurance premiums and administrative  
7 expenses associated with the welfare benefits,  
8 including pre-retirement disability and survivor  
9 death benefits offered to members of the Defined  
10 Contribution Retirement System;

11 (h) Welfare benefit plan means any  
12 employee welfare benefit plan created and  
13 established by this Article, including plans  
14 providing for pre-retirement disability benefits or  
15 survivor death benefits, which shall be offered to  
16 members of the Defined Contribution Retirement  
17 System, as provided in the contracts negotiated  
18 with insurance providers.

19 **§ 8402. Welfare Benefit Plans created and**  
20 **established; body corporate.** The Welfare Benefit  
21 Plans for Defined Contribution Retirement System  
22 members as described herein shall be created and  
23 established to provide employee welfare benefits as  
24 reasonable and necessary to fulfill the purposes of

1           this Article. The business of each welfare benefit  
2           plan created hereunder shall constitute a body  
3           corporate and all business of each welfare benefit  
4           plan shall be transacted in the name of the  
5           Government of Guam Defined Contribution  
6           Retirement System for the benefit of its members.

7           **§ 8403. Article to be liberally construed; purpose.**

8           The provisions of this Article shall be liberally  
9           construed so as to provide, to the extent practicable,  
10          similar (although not necessarily equal) pre-  
11          retirement disability and survivor death benefits as  
12          those provided to members of the Defined Benefit  
13          Plan, and to provide other employee welfare  
14          benefits to members of the Defined Contribution  
15          Retirement System, which benefits are fully funded  
16          on a current basis from employer contributions,  
17          with the objective of encouraging qualified  
18          personnel to enter and remain in the service of the  
19          government of Guam, thus effecting economy and  
20          efficiency in the administration of the government.

21  
22          **§ 8404. Administration of the Welfare Benefit**

23          **Plans.** The Board of Trustees created pursuant to  
24          Article 1 of Chapter 8 of this Title, and authorized  
25          under Article 2, Chapter 8 of this Title, shall

1 administer the welfare benefit plans for members of  
2 the Government of Guam Defined Contribution  
3 Retirement System. The board may sue and be  
4 sued, contract and be contracted with and conduct  
5 all the business of the welfare benefit plans.

6  
7 **§ 8405. Powers and Duties of the Board of**

8 **Trustees.** The Board has all powers necessary to  
9 effectuate the purposes of this Article. The Board is  
10 authorized and empowered to take any and all  
11 required action, including, but not limited to,  
12 making decisions concerning plan design and  
13 adoption of the plan, entering into contracts with  
14 third parties for actuarial, insurance, custodial,  
15 annuity, legal and administrative and other  
16 products and services, all of which shall be  
17 intended to implement the welfare benefit plans  
18 consistent with the intent of this Article. The Board  
19 shall authorize the company or companies with  
20 whom it contracts to make available the welfare  
21 benefits under the plans adopted herein. The Board  
22 may borrow monies to effectuate the purposes of  
23 this Article, including, but not limited to, monies  
24 loaned from the Government of Guam Retirement  
25 Fund for interim financing for survivor death  
26 insurance and pre-retirement disability insurance

1 premiums offered to members of the Defined  
2 Contribution Retirement System.”

3  
4 **§ 8406. Participation in the Welfare Benefit Plans.**

5 Members of the Defined Contribution Retirement  
6 System are eligible to participate in the welfare  
7 benefit plans established hereunder;

8  
9 **§ 8407. Employer’s Contributions.** (a) Each  
10 participating employer shall make a contribution to  
11 the applicable welfare benefit account for the sole  
12 purpose of financing insurance premiums and  
13 administrative expenses related to the welfare  
14 benefit plans established under this Article,  
15 including pre-retirement disability insurance and  
16 survivor death insurance, in aggregate amounts  
17 equal to a designated percentage of such member's  
18 base pay, the percentage to be determined on a  
19 quarterly basis by the Board within its sole  
20 discretion, in an aggregate amount not to exceed  
21 eight-tenths of one percent (0.8%) of each member's  
22 base pay.

23  
24 (b) Each participating employer shall ensure  
25 that its employer contributions are made within five



1 (5) working days. In the case of an officer or an  
2 employee of the government of Guam, any unpaid  
3 employer contribution shall be a government debt,  
4 contracted as a result of a casual deficit in the  
5 government's revenues, to be accorded preferred  
6 status over other expenditures."

7 **Section 14. Severability.** If any provision of this Act or  
8 its application to any person or circumstance is found to be  
9 invalid or contrary to law, such invalidity shall not affect other  
10 provisions or applications of this Act which can be given effect  
11 without the invalid provisions or application, and to this end  
12 the provisions of this Act are severable.

MINA BENTE SAIS NA LIHESLATURAN GUAHAN  
2002 (SECOND) Regular Session

Bill No. 434 (COR)

Introduced by:

v.c. pangelinan  
M. Forbes  
L.A. Leon Guerrero *ads.*

AN ACT TO AMEND SECTIONS 8201, 8203, 8205, 8209, 8210, and 8211 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED AND TO ADD A NEW ARTICLE 4 TO CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO ESTABLISHING SEPARATE WELFARE BENEFIT PLANS TO INCLUDE SURVIVOR DEATH BENEFITS AND PRE-RETIREMENT DISABILITY BENEFITS FOR DEFINED CONTRIBUTION RETIREMENT SYSTEM MEMBERS; AND TO AMEND SECTION 8211 OF ARTICLE 2, CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO ENSURING PORTABILITY OF TRANSFER INCENTIVES

1           BE IT ENACTED BY THE PEOPLE OF GUAM:

2           SECTION 1.       Legislative Findings. *I Liheslaturan Guahan* finds

3 that Public Law Number 23-42, which established the Defined Contribution

4 Retirement System for government of Guam employees whose

5 employment commences on or after October 1, 1995 was enacted to

6 provide a more flexible and self-directed pension plan for the these

7 employees and to protect and preserve the fiscal soundness of the existing

8 Defined Benefit Plan, for the benefit of all present retirees and future

9 retirees of the Defined Benefit Plan. Subsequently, *I Liheslaturan Guahan*

10 enacted Public Law Number 24-200 to provide the Defined Contribution

1 Retirement System members with survivor death benefits and pre-  
2 retirement disability benefits, to be funded by employer, not employee,  
3 contributions which was not established in Public Law 23-42 to ensure that  
4 these employee members are provided the same protection that were  
5 available to the Defined Benefit Plan members

6 *I Liheslaturan Guahan* finds that these survivor death benefits and  
7 pre-retirement disability benefits referred to as ancillary welfare benefits in  
8 federal pension legislation, for members of the Defined Contribution  
9 Retirement System, which currently are provided in conjunction with the  
10 core retirement benefits provided under the Defined Contribution  
11 Retirement System, can be more efficiently and effectively administered  
12 and operated if these benefits were administered as two separate plans, so  
13 as to simplify compliance with the tax code and regulations and  
14 amendments thereto.

15 **SECTION 2. Legislative Intent Regarding Ancillary Benefits.** It is  
16 the intent of *I Liheslaturan Guahan* that the survivor death and pre-  
17 retirement disability benefits currently provided as ancillary benefits under  
18 the Defined Contribution Retirement System shall be repealed in Article 2,  
19 Chapter 8, Title 4 of the Guam Code Annotated, and re-established in  
20 separate employee welfare benefit plans created under a new Article 4,  
21 Chapter 8, Title 4 of the Guam Code Annotated. These new employee  
22 welfare benefit plans shall include pre-retirement disability benefits and  
23 survivor death benefits to be provided exclusively to members of the  
24 Government of Guam Defined Contribution Retirement System (to the  
25 exclusion of members of the Government of Guam Retirement Fund –

1 Defined Benefit Plan). *I Liheslaturan Guahan* intends that members of the  
2 Defined Contribution Retirement System should be provided with similar,  
3 although not equal, benefits to those offered under the Defined Benefit  
4 Plan, except to the extent that the terms and conditions related to providing  
5 such benefits (including eligibility, contributions, vesting, and  
6 distributions) are manifestly inapplicable because they cannot be converted  
7 intact under the terms and conditions in the Defined Contribution  
8 Retirement System Plan Document. The effect of this legislation is to  
9 redirect the appropriations currently used to fund the ancillary benefits in  
10 the Defined Contribution Retirement System in Article 2, Chapter 8, Title 4  
11 of the Guam Code Annotated, to provide continuation of coverage under  
12 new welfare benefit plans created under Article 4 of the same title.

13 *I Liheslaturan Guahan* intends that the Board of Trustees of the  
14 Defined Contribution Retirement System, on behalf of the Government of  
15 Guam and all of its employers, shall be authorized and empowered to take  
16 any and all required action, including, but not limited to, making decisions  
17 concerning plan design and adoption of plans, entering into contracts with  
18 third parties for actuarial, insurance, custodial, annuity, legal and  
19 administrative and other products and services, all of which shall be  
20 intended to implement the welfare benefit plans consistent with the intent  
21 of this legislation.

22 *I Liheslaturan Guahan* intends that, upon implementation of, all  
23 contributions to the Defined Contribution Retirement System for purposes  
24 of these ancillary benefits therein shall cease. Contributions already  
25 deposited into the Ancillary Benefit Account shall continue to be drawn

1 upon solely for the payment of insurance premiums associated with the  
2 ancillary benefits provided thereunder, until entirely depleted, and under  
3 no circumstances shall such contributions already deposited into Ancillary  
4 Benefit Account be reimbursed or reverted to any Employer. The Board  
5 shall adopt the existing pre-retirement disability benefit plan, or a survivor  
6 death benefit plan in the new Article 4. All contributions shall be redirected  
7 to the welfare benefit account to be drawn upon solely for the payment of  
8 insurance premiums and administrative expenses associated with the  
9 welfare benefits created under Article 4.

### 10 SECTION 3. Legislative Intent Regarding Transfer Incentive

11 **Reserve.** It is the intent of *I Liheslaturan Guahan* that the transfer incentives  
12 created under Public Law Number 25-19, which were designed to  
13 encourage employees to transfer from the Defined Benefit Plan to the  
14 Defined Contribution Retirement System, should comply with the tax code  
15 and regulations, and be subject to the same distribution requirements of  
16 any other rollover contributions, in order to comply with, and to increase  
17 the administrative and portability options for retirement plans under the  
18 Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”).  
19 Accordingly, the employer’s contributions held in the transfer incentive  
20 reserve created under Public Law Number 25-19, as amended by Public  
21 Law Number 25-157, is fully and immediately vested and nonforfeitable,  
22 and distribution of such vested account balances shall be made in  
23 accordance with the provisions of the Defined Contribution Retirement  
24 System Plan Document, in compliance with EGTRRA.

1           **Section 4.** Section 8201(h), Article 2, Chapter 8, Title 4 of the Guam  
2 Code Annotated, is hereby amended as follows:

3                   “(h) Employer contribution means an amount  
4                   deposited into the member's individual annuity  
5                   account or, as applicable, ancillary benefit account  
6                   on a periodic basis coinciding with the employee's  
7                   base payroll period by an employer from its own  
8                   funds;”

9           **Section 5.** Section 8201(k), Article 2, Chapter 8 of Title 4 of the Guam  
10 Code Annotated, is hereby repealed. A new definition of Plan Document is  
11 added to read as follows:

12                   “(k) Plan Document means the Defined  
13                   Contribution Retirement System Plan and Trust  
14                   Agreement, as approved and adopted by the Board  
15                   of Trustees, pursuant to this Article, as from time to  
16                   time amended.”

17           **Section 6.** Section 8201(n), Article 2, Chapter 8 of Title 4 of the Guam  
18 Code Annotated, is hereby amended to read as follows:

19                   “(n) Ancillary Benefit Account means a pool  
20                   account established for all members to record the  
21                   deposit of employer contributions, interest and/or  
22                   other accumulations credited on behalf of all  
23                   members, the balance of which shall be used solely  
24                   for the payment of insurance premiums associated  
25                   with the disability benefits to the extent they were

1 offered under the Defined Contribution Retirement  
2 System. The Ancillary Benefit Account, as  
3 distinguished from the "Account" as defined in §  
4 8201(i), shall not be subject to any distributions to  
5 members as prescribed in § 8210, nor be included in  
6 any account statements as prescribed in § 8214.  
7 Subsequent to the creation of the Welfare Benefit  
8 Account established under Article 4 of this Chapter,  
9 the Ancillary Benefit Account shall remain  
10 operative until all balances have been depleted for  
11 the payment of insurance premiums associated with  
12 the pre-retirement disability benefits and survivor  
13 death benefits offered under the Defined  
14 Contribution Retirement System. Under no  
15 circumstances shall contributions already deposited  
16 into the Ancillary Benefit Account be reimbursed or  
17 reverted to any Employer."

18 **Section 7.** Section 8203, Article 2, Chapter 8, Title 4 of the Guam  
19 Code Annotated, is hereby amended to read as follows:

20 **"§ 8203. Article to be Liberally construed;**

21 **Purpose.**

22 The provisions of this Article shall be liberally  
23 construed so as to provide an individual account  
24 retirement system for any person who is employed  
25 in the government of Guam. The purpose of the

1 Article is to provide a defined contribution  
2 retirement program which is fully funded on a  
3 current basis from employer and member  
4 contributions. ~~In addition, the purpose of this  
5 Article is to provide pre-retirement ancillary  
6 benefits in the form of disability benefits for  
7 members, and survivor death benefits for the  
8 beneficiaries of such members, which benefits are  
9 fully funded on a current basis from employer  
10 contributions, with the objective of encouraging  
11 qualified personnel to enter and remain in the  
12 service of the government of Guam, thus effecting  
13 economy and efficiency in the administration of the  
14 government."~~

15 **Section 8.** Section 8205 of Article 2, Chapter 8 of Title 4 of the Guam  
16 Code Annotated, is hereby amended to read as follows:

17 **"§ 8205. Powers and duties of the Board of**  
18 **Trustees in the administration of the Defined**  
19 **Contribution Retirement System.** The Board has  
20 all powers necessary to effectuate the purposes of  
21 this Article. The Board may contract with an  
22 insurance, annuity, mutual fund, or other qualified  
23 company or companies to administer the operations  
24 of the defined contribution system. In selecting such  
25 company or companies the Board shall take into



1 account as its highest fiduciary duty, the proper  
2 safeguard and protection of the member and  
3 employer contributions and the interest dividends,  
4 or other returns thereon. The Board shall  
5 promulgate rules regarding the proper investment  
6 of funds. The Board may borrow monies to  
7 effectuate the purposes of this Article, including,  
8 but not limited to, monies loaned from the  
9 Government of Guam Retirement Fund for interim  
10 financing for survivor death insurance and pre-  
11 retirement disability insurance premiums to the  
12 extent that they were offered under the Defined  
13 Contribution Retirement System.”

14 **Section 9.** Subsection 8209(b) of Article 2, Chapter 8 of Title 4 of the  
15 Guam Code Annotated, is hereby amended to read as follows:

16 “(b) Furthermore, prior to the adoption of welfare  
17 benefit plans for pre-retirement disability and  
18 survivor death benefits in Article 4 of this Title, each  
19 participating employer also shall make a  
20 contribution to the Ancillary Benefit Account for the  
21 sole purpose of financing pre-retirement disability  
22 insurance and survivor death insurance premiums,  
23 in an amount equal to a designated percentage of  
24 such member's base pay, the percentage to be  
25 determined on a quarterly basis by the Board within

1 its sole discretion, in an amount not to exceed eight-  
2 tenths of one percent (0.8%) of each member's base  
3 pay. Subsequent to the adoption of welfare benefit  
4 plans for pre-retirement disability and survivor  
5 death benefits in Article 4 of this Title, such  
6 employer contributions herein shall cease, and  
7 those contributions deposited into the Ancillary  
8 Benefit Account shall continue to be drawn upon  
9 solely for the payment of insurance premiums  
10 associated with the ancillary benefits provided  
11 hereunder, until entirely depleted, and under no  
12 circumstances shall such contributions already  
13 deposited into the Ancillary Benefit Account be  
14 reimbursed or reverted to any Employer."

15 **Section 10.** Subsection 8210(b) of Article 2, Chapter 8 of Title 4 of the  
16 Guam Code Annotated, is hereby amended to read as follows:

17 "(b) A member's interest in the balance of his  
18 Employer Contribution Account described in § 8209  
19 shall be fully and immediately vested and  
20 nonforfeitable upon the occurrence of any one (1) or  
21 more of the following events:

22 (1) the member's attainment of normal  
23 retirement age as defined in the Defined  
24 Contribution Retirement System Plan and Trust

1 ~~Agreement~~ Document while the member is  
2 employed by the government;

3 (2) the member's death while the member is  
4 employed by the government;

5 (3) the member's disability as defined in the  
6 Defined Contribution Retirement System Plan ~~and~~  
7 ~~Trust Agreement~~ Document while the member is  
8 employed by the government; or

9 (4) the termination of all or a portion of the  
10 Defined Contribution Retirement System, including  
11 the Employer Contribution Account.”

12 **Section 11.** Subsection 8210(c) of Article 2, Chapter 8 of Title 4 of the  
13 Guam Code Annotated, is hereby amended to read as follows:

14 “(c) In addition to the events described in  
15 Subsection (b), a member's interest in the balance of  
16 his Employer Contribution account described in §  
17 8209 shall be fully and immediately vested and  
18 nonforfeitable upon the member's completion of  
19 five (5) or more years of employment pursuant to  
20 Subsection (e) of § 8201 and as described in the  
21 Defined Contribution Retirement System Plan ~~and~~  
22 ~~Trust Agreement~~ Document.”

23 **Section 12.** Section 8211 of Article 2, Chapter 8 of Title 4 of the Guam  
24 Code Annotated, is hereby amended to read as follows:

1           “(a) Normal and Early Retirement. At any  
2 time after a member reaches the early retirement  
3 age of fifty-five (55) years and has completed five  
4 (5) years of employment for vesting purposes, or  
5 reaches the normal retirement age of sixty-five (65),  
6 that person may elect to receive retirement benefits  
7 by notifying the Board or its designee in writing of  
8 such intention not less than sixty (60) days prior to  
9 the effective date of retirement. Retirement  
10 payments shall commence as soon as practicable  
11 after retirement in accordance with the Defined  
12 Contribution Retirement System Plan ~~and Trust~~  
13 Agreement Document.

14           (b) Disability. A member may elect to receive  
15 a distribution of the member's vested account  
16 balances as soon as practicable after termination of  
17 employment due to ~~permanent and total~~ disability  
18 as defined in the Defined Contribution Retirement  
19 System Plan Document; provided that any  
20 distribution of the member's vested account  
21 balances will render the member ineligible to  
22 receive any pre-retirement benefits provided under  
23 any long-term disability insurance policy issued  
24 pursuant to § 8213 or Article 4 of this Title. In the  
25 event of ~~permanent and total~~ disability after

1 termination of employment, a member may elect to  
2 receive a distribution of that member's vested  
3 account as soon as practicable after certification of  
4 said disability in accordance with the Defined  
5 Contribution Retirement System Plan ~~and Trust~~  
6 ~~Agreement~~ Document.

7 (c) Death. In the event of a member's death,  
8 distribution of the member's vested account  
9 balances to the member's beneficiaries shall be  
10 made as soon as practicable after ~~retirement~~ death  
11 in accordance with the Defined Contribution  
12 Retirement System Plan ~~and Trust Agreement~~  
13 Document.

14 (d) Other Termination of Employment. In the  
15 event of termination of employment for reasons  
16 other than retirement, disability or death, a member  
17 may elect to receive a distribution of the member's  
18 vested account balances as soon as practicable after  
19 termination of employment; ~~provided, that the~~  
20 ~~distribution of vested amounts in the member's~~  
21 ~~Employer Contribution Account and Transfer~~  
22 ~~Incentive Reserve shall be distributed upon either:~~  
23 ~~(1) the member's attainment of early or normal~~  
24 ~~retirement age in accordance with the Defined~~  
25 ~~Contribution Retirement System Plan and Trust~~

1 ~~Agreement; (2) disability as described in Subsection~~  
2 ~~(b); or (3) death as described in Subsection (c)."~~

3 **Section 13.** Article 4 is hereby added to Chapter 8 of Title 4 of the  
4 Guam Code Annotated to read as follows:

5 **"ARTICLE 4. WELFARE BENEFIT PLANS**

6 **§8401. Definitions.** As used in this article, unless  
7 the context otherwise requires:

8 (a) Base Pay means an employee's stated  
9 rate of pay;

10 (b) Board means the Board of Trustees of  
11 the government of Guam Retirement Fund, which  
12 also is responsible for the direction and operation of  
13 the affairs and business of the Defined Contribution  
14 Retirement System. Title to all assets in the welfare  
15 benefit plans created herein shall be held in the  
16 name of the Board for the benefit of participants in  
17 the welfare benefit plans herein;

18 (c) Defined Contribution Retirement  
19 System means the Government of Guam Defined  
20 Contribution Retirement System created by Article  
21 2 of Chapter 8 of Title 4 of the Guam Code  
22 Annotated;

23 (d) Employer contribution means an  
24 amount deposited into a welfare benefit account, on

1 a periodic basis coinciding with the employee's base  
2 payroll period, by an employer from its own funds,  
3 the balances of which shall be used solely for the  
4 payment of insurance premiums associated with the  
5 welfare benefit plans established hereunder,  
6 including pre-retirement disability and survivor  
7 death benefits offered to members of the Defined  
8 Contribution Retirement System;

9 (e) Employer means each and every line  
10 department or agency of the Executive Branch,  
11 every autonomous and semi-autonomous agency or  
12 instrumentality, public corporations, every  
13 educational institution whether secondary or post  
14 secondary, the Judicial Branch, the Legislative  
15 Branch, Public Defender Corporation, and every  
16 public entity hereafter to be created by law, within  
17 the territory of Guam which has employed or  
18 employs a member;

19 (f) Member means any member of the  
20 Defined Contribution Retirement System in  
21 accordance with Article 2, Chapter 8, Title 4 of the  
22 Guam Code Annotated;

23 (g) Welfare benefit account means an  
24 employee welfare benefit account created and

1 established by this Article as a pool account  
2 established for all members to record the deposit of  
3 employer contributions, interest and other  
4 accumulations credited on behalf of all members,  
5 the balances of which shall be used solely for the  
6 payment of insurance premiums and administrative  
7 expenses associated with the welfare benefits,  
8 including pre-retirement disability and survivor  
9 death benefits offered to members of the Defined  
10 Contribution Retirement System;

11 (h) Welfare benefit plan means any  
12 employee welfare benefit plan created and  
13 established by this Article, including plans  
14 providing for pre-retirement disability benefits or  
15 survivor death benefits, which shall be offered to  
16 members of the Defined Contribution Retirement  
17 System, as provided in the contracts negotiated  
18 with insurance providers.

19 **§ 8402. Welfare Benefit Plans created and**  
20 **established; body corporate.** The Welfare Benefit  
21 Plans for Defined Contribution Retirement System  
22 members as described herein shall be created and  
23 established to provide employee welfare benefits as  
24 reasonable and necessary to fulfill the purposes of



1 this Article. The business of each welfare benefit  
2 plan created hereunder shall constitute a body  
3 corporate and all business of each welfare benefit  
4 plan shall be transacted in the name of the  
5 Government of Guam Defined Contribution  
6 Retirement System for the benefit of its members.

7 **§ 8403. Article to be liberally construed; purpose.**

8 The provisions of this Article shall be liberally  
9 construed so as to provide, to the extent practicable,  
10 similar (although not necessarily equal) pre-  
11 retirement disability and survivor death benefits as  
12 those provided to members of the Defined Benefit  
13 Plan, and to provide other employee welfare  
14 benefits to members of the Defined Contribution  
15 Retirement System, which benefits are fully funded  
16 on a current basis from employer contributions,  
17 with the objective of encouraging qualified  
18 personnel to enter and remain in the service of the  
19 government of Guam, thus effecting economy and  
20 efficiency in the administration of the government.

21 **§ 8404. Administration of the Welfare Benefit**

22 **Plans.** The Board of Trustees created pursuant to  
23 Article 1 of Chapter 8 of this Title, and authorized  
24 under Article 2, Chapter 8 of this Title, shall  
25

1 administer the welfare benefit plans for members of  
2 the Government of Guam Defined Contribution  
3 Retirement System. The board may sue and be  
4 sued, contract and be contracted with and conduct  
5 all the business of the welfare benefit plans.

6  
7 **§ 8405. Powers and Duties of the Board of**  
8 **Trustees.** The Board has all powers necessary to  
9 effectuate the purposes of this Article. The Board is  
10 authorized and empowered to take any and all  
11 required action, including, but not limited to,  
12 making decisions concerning plan design and  
13 adoption of the plan, entering into contracts with  
14 third parties for actuarial, insurance, custodial,  
15 annuity, legal and administrative and other  
16 products and services, all of which shall be  
17 intended to implement the welfare benefit plans  
18 consistent with the intent of this Article. The Board  
19 shall authorize the company or companies with  
20 whom it contracts to make available the welfare  
21 benefits under the plans adopted herein. The Board  
22 may borrow monies to effectuate the purposes of  
23 this Article, including, but not limited to, monies  
24 loaned from the Government of Guam Retirement  
25 Fund for interim financing for survivor death  
26 insurance and pre-retirement disability insurance

1 premiums offered to members of the Defined  
2 Contribution Retirement System.”

3  
4 **§ 8406. Participation in the Welfare Benefit Plans.**

5 Members of the Defined Contribution Retirement  
6 System are eligible to participate in the welfare  
7 benefit plans established hereunder;

8  
9 **§ 8407. Employer’s Contributions.** (a) Each  
10 participating employer shall make a contribution to  
11 the applicable welfare benefit account for the sole  
12 purpose of financing insurance premiums and  
13 administrative expenses related to the welfare  
14 benefit plans established under this Article,  
15 including pre-retirement disability insurance and  
16 survivor death insurance, in aggregate amounts  
17 equal to a designated percentage of such member's  
18 base pay, the percentage to be determined on a  
19 quarterly basis by the Board within its sole  
20 discretion, in an aggregate amount not to exceed  
21 eight-tenths of one percent (0.8%) of each member's  
22 base pay.

23  
24 (b) Each participating employer shall ensure  
25 that its employer contributions are made within five

1 (5) working days. In the case of an officer or an  
2 employee of the government of Guam, any unpaid  
3 employer contribution shall be a government debt,  
4 contracted as a result of a casual deficit in the  
5 government's revenues, to be accorded preferred  
6 status over other expenditures.”

7 **Section 14. Severability.** If any provision of this Act or  
8 its application to any person or circumstance is found to be  
9 invalid or contrary to law, such invalidity shall not affect other  
10 provisions or applications of this Act which can be given effect  
11 without the invalid provisions or application, and to this end  
12 the provisions of this Act are severable.