



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932  
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

Office of the People's Speaker  
vicente (ben) c. pangelinan

NOV 18 2003

TIME: 5:15 ( ) AM ( ) PM  
RECEIVED BY: 

Felix Perez Camacho  
Governor

Kaleo Scott Moylan  
Lieutenant Governor

18 NOV 2003

The Honorable Vicente C. Pangelinan  
Speaker  
*I Mina'Bente Siete Na Liheslaturan Guåhan*  
Twenty-Seventh Guam Legislature  
155 Hesler Street  
Hagåtña, Guam 96910

Dear Speaker Pangelinan:

Transmitted herewith is Bill No. 153 (COR), "AN ACT TO REPEAL AND REENACT §§8138 AND TO ADD NEW §§8138.1, 8138.2, 8138.3, 8138.4, 8138.5 AND 8173 TO ARTICLE 1 OF CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE METHODS OF APPOINTMENT AND ELECTION OF MEMBERS OF THE BOARD OF TRUSTEES OF THE GOVERNMENT OF GUAM RETIREMENT FUND, DEFINING ELIGIBILITY AND CRITERIA FOR APPOINTEES, CANDIDATES FOR ELECTION AND THE ELECTION PROCESS, AND FUND TRANSFERS; AND TO ADD A NEW ARTICLE 4 TO TITLE 2, GUAM ADMINISTRATIVE RULES, RELATIVE TO CONDUCTING ELECTIONS OF TRUSTEES FOR THE GOVERNMENT OF GUAM RETIREMENT FUND," which I signed into law on November 14, 2003 as Public Law No. 27-43.

Sincerely yours,

FELIX P. CAMACHO  
*I Maga'låhen Guåhan*  
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Tina Rose Muna-Barnes  
Senator and Legislative Secretary

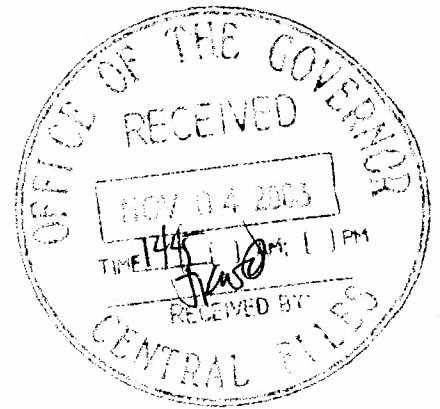
005



**MINA' BENTE SIETE NA LIHESLATURAN GUÅHAN**  
TWENTY-SEVENTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

November 4, 2003

The Honorable Felix P. Camacho  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill No. 76(LS), and Substitute Bill Nos. 63(COR), 67(LS), 80(COR), 96(COR), 100(COR), 144(LS), 152(COR) and 153(COR) which were passed by *I Mina' Bente Siete Na Liheslaturan Guåhan* on October 31, 2003.

Sincerely,

TINA ROSE MUNA BARNES  
Legislative Secretary

Enclosures (9)

CFI-1103-3636

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 153 (COR) "AN ACT TO REPEAL AND REENACT §8138 AND TO ADD NEW §§8138.1, 8138.2, 8138.3, 8138.4, 8138.5 AND 8173 TO ARTICLE 1 OF CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE METHODS OF APPOINTMENT AND ELECTION OF MEMBERS OF THE BOARD OF TRUSTEES OF THE GOVERNMENT OF GUAM RETIREMENT FUND, DEFINING ELIGIBILITY AND CRITERIA FOR APPOINTEES, CANDIDATES FOR ELECTION AND THE ELECTION PROCESS, AND FUND TRANSFERS; AND TO ADD A NEW ARTICLE 4 TO TITLE 2, GUAM ADMINISTRATIVE RULES, RELATIVE TO CONDUCTING ELECTIONS OF TRUSTEES FOR THE GOVERNMENT OF GUAM RETIREMENT FUND", was on the 31<sup>st</sup> day of October, 2003, duly and regularly passed.

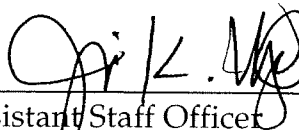
\_\_\_\_\_  
vicente (ben) c. pangelinan  
Speaker

Attested:



**Tina Rose Muña Barnes**  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guåhan* this 4<sup>th</sup> day of November, 2003, at 8:50  
o'clock 9.M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

  
\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: 11/14/03

Public Law No. 27-43

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN  
2003 (FIRST) Regular Session

**Bill No. 153 (COR)**

As substituted by the author,  
further substituted by the Committee on Economic Development,  
Retirement, Investments, Public Works & Regulatory Functions  
and further substituted by the Committee on Rules, and amended  
on the Floor.

Introduced by:

Toni Sanford  
T. R. Muña Barnes  
L. A. Leon Guerrero  
F. B. Aguon, Jr.  
J. M.S. Brown  
F. R. Cunliffe  
C. Fernandez  
Mark Forbes  
L. F. Kasperbauer  
R. Klitzkie  
J. A. Lujan  
v. c. pangelinan  
J. M. Quinata  
R. J. Respicio  
Ray Tenorio

**AN ACT TO REPEAL AND REENACT §8138 AND TO ADD NEW §§8138.1, 8138.2, 8138.3, 8138.4, 8138.5 AND 8173 TO ARTICLE 1 OF CHAPTER 8, TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE METHODS OF APPOINTMENT AND ELECTION OF MEMBERS OF THE BOARD OF TRUSTEES OF THE GOVERNMENT OF GUAM RETIREMENT FUND, DEFINING ELIGIBILITY AND CRITERIA FOR APPOINTEES, CANDIDATES FOR ELECTION AND THE ELECTION PROCESS, AND FUND TRANSFERS; AND TO ADD A NEW ARTICLE 4 TO TITLE 2, GUAM ADMINISTRATIVE RULES, RELATIVE TO CONDUCTING ELECTIONS OF TRUSTEES FOR THE GOVERNMENT OF GUAM RETIREMENT FUND.**

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

2           **Section 1. Legislative Findings and Intent.**    *I Liheslaturan*

3    *Guåhan* finds that 4 GCA §8138 was amended by Public Law No. 26-131,  
4    and further amended by Public Law No. 27-05:IV:22, to increase the  
5    membership of the Board of Trustees of the Government of Guam  
6    Retirement Fund, but did not provide for participation by, or  
7    representation of, members and retirees of the Defined Contribution  
8    Retirement System. As the Board of Trustees is responsible not only for  
9    the administration and operation of the Defined Benefit Plan, but also  
10   for the Defined Contribution Retirement System, *I Liheslaturan Guåhan*  
11   intends that members and retirees of the Defined Contribution  
12   Retirement System should have the opportunity to elect and be  
13   represented on the Board of Trustees.

14           *I Liheslaturan Guåhan* further finds that to achieve a broader and  
15   more diverse base of representation, and to ensure continuity and  
16   expertise on the Board of Trustees, the offices of the Board of Trustees  
17   should be identified by class and each office should be filled only by  
18   members eligible for each particular class. To ensure independence,  
19   Retirement Fund employees shall be ineligible to seek election to, and  
20   shall be prohibited from serving on, the Board of Trustees. At the end of  
21   their terms, Trustees should continue to serve until their successors are  
22   elected or duly appointed to succeed them, and elected retirees and  
23   elected active members should be prohibited from tendering courtesy  
24   resignations upon a change of administration.

1           It is therefore, the intent of *I Liheslaturan Guåhan* to amend existing  
2 statutes as well as administrative rules and regulations to require  
3 elections to be conducted by the Guam Election Commission no later  
4 than ninety (90) days after the enactment of this Act and promulgation  
5 of regulations.

6           **Section 2.** §8138 of Article 1, Chapter 8, Title 4 of the Guam  
7 Code Annotated is *repealed* and *reenacted* to read as follows:

8           “§8138. **Board of Trustees.** (a) The general administration  
9 and the responsibility for the proper operation of the Fund, and  
10 for making effective the provisions of this Article, shall be vested  
11 in a Board of Trustees.

12           (b) Upon the election and appointment of additional  
13 trustees, the Board of Trustees shall consist of seven (7) members  
14 as follows:

15           (1) **Elected Retirees:** Two (2) retirees who are  
16 domiciled in Guam and are currently in receipt of a  
17 retirement annuity from either the Defined Benefit Plan or  
18 the Defined Contribution Retirement System, to be elected  
19 only by retirees of the Defined Benefit Plan or the Defined  
20 Contribution Retirement System. Retirees who are  
21 employed by, or under contract with, the government of  
22 Guam shall, regardless of their employment status, remain  
23 eligible to vote for Elected Retirees and/or to serve as  
24 Elected Retirees on the Board of Trustees.

1           (2) **Elected Active Members:** Two (2) members of  
2 either the Defined Benefit Plan or the Defined Contribution  
3 Retirement System (A) who are employed and have been  
4 employed for at least five (5) years by the government of  
5 Guam; and (B) who are contributing to either the Defined  
6 Benefit Plan in accordance with §8136 of this Article or to the  
7 Defined Contribution Retirement System in accordance with  
8 §8208 of this Chapter, to be elected by members of the  
9 Defined Benefit Plan and participants in the Defined  
10 Contribution Retirement System.

11           (3) **Appointed Residents:** Three (3) persons who  
12 are domiciled in Guam, two (2) of whom are not employed  
13 by the government of Guam, and one (1) of whom shall be a  
14 government employee in the classified service, all with  
15 demonstrated financial ability and broad business  
16 management or investment experience, ideally in investment  
17 or management of pension funds, to be appointed by *I*  
18 *Maga'lahaen Guåhan* with the advice and consent of *I*  
19 *Lihaslaturan Guåhan*.

20           (4) **Retirement Fund Employees Disqualified.**  
21 Employees of the Retirement Fund shall be disqualified from  
22 serving on the Board of Trustees."

23           **Section 3.** A new §8138.1 is hereby *added* to Article 1, Chapter 8,  
24 Title 4 of the Guam Code Annotated, to read as follows:

1           **“§8138.1. Classification of Offices; Transition; Initial and**  
2           **Subsequent Elections and Appointments. (a) Classification of**  
3           **Offices.** The Board of Trustees shall transition into a seven (7)  
4           member board as described in §8138, consisting of two (2) Elected  
5           Retirees, two (2) Elected Active Members, two (2) Appointed  
6           Residents who are not employed by nor retired from the  
7           government, and one (1) Appointed Resident who is in the  
8           classified service. To realize that intent, those seven (7) offices  
9           shall be classified by identifying each office with a number, with  
10          Office 1 and Office 2 held by those who are Elected Retirees, and  
11          Office 3 and Office 4 held by those who are Elected Active  
12          Members. Offices 5, 6, and 7 shall be held by those appointed by *I*  
13          *Maga’lahen Guåhan* with the advice and consent of *I Liheslaturan*  
14          *Guåhan* with Offices 5 and 6 held by Appointed Residents who are  
15          not employed by nor retired from the government of Guam.  
16          Office 7 shall be held by an Appointed Resident who shall be a  
17          government of Guam employee in the classified service.

18           **(b) Transition.** Incumbent Trustees shall continue to  
19          serve on the Board of Trustees, except that they will be deemed to  
20          have resigned upon the oath of office taken by two (2) Elected  
21          Retirees and two (2) Elected Active Members who are elected in  
22          the initial election to fill Offices 1 through 4.

23           **(c) Elections and Appointments.** An initial election and  
24          all subsequent elections to fill Offices 1 through 4 shall be  
25          conducted on a Saturday that is not a legal holiday, *except* that the



1 election shall not be held within sixty (60) days prior to a Primary  
2 or General Election, or between a Primary and General Election, in  
3 which case the Board of Trustees' election shall be held at least  
4 thirty (30) but no more than sixty (60) days following a General  
5 Election. The initial election shall be held between February 1,  
6 2004, and March 1, 2004. Board of Trustees elections shall be  
7 conducted by the Guam Election Commission and shall be funded  
8 by the Retirement Fund to fill Offices 1 through 4 in the following  
9 manner: Offices 1 and 2 shall be filled only by Elected Retirees.  
10 Offices 3 and 4 shall be filled only by Elected Active Members. All  
11 appointments for Offices 5 through 7 shall be made by *I*  
12 *Maga'lahaen Guåhan* with the advice and consent of *I Liheslaturan*  
13 *Guåhan*. Offices 5 and 6 shall be filled only by Appointed  
14 Residents who are not employed by the government of Guam.  
15 Office 7 shall be filled only by an Appointed Resident who shall be  
16 a government of Guam employee in the classified service."

17 **Section 4.** A new §8138.2 is hereby *added* to Article 1, Chapter 8,  
18 Title 4 of the Guam Code Annotated, to read as follows:

19 **"§8138.2. Oath; Term of Office; Compensation.** (a) Each  
20 Trustee, within ten (10) days after being duly appointed or elected  
21 and having received a certificate of election, shall take an oath of  
22 office that the Trustee will diligently and honestly administer the  
23 affairs of the Board of Trustees, and that the Trustee will not  
24 knowingly violate or willingly permit to be violated any of the  
25 provisions of law applicable to the Fund. The oath shall be

1 subscribed to by the member making it and shall be administered  
2 and certified by the Chief Justice of the Supreme Court of Guam.

3 (b) The term of office of a Trustee elected or duly appointed  
4 shall be five (5) years from the date the Trustee first takes the oath  
5 of office following such election or appointment.

6 (c) Notwithstanding the expiration of the terms of office,  
7 each Trustee shall continue to serve until that Trustee's successor  
8 is elected or duly appointed, as the case may be, and the successor  
9 has taken the oath of office. Upon the successor's oath of office, the  
10 predecessor to that office shall be deemed to have resigned.

11 (d) The Trustee shall be compensated in accordance with 5  
12 GCA §43104, as amended."

13 **Section 5.** A new §8138.3 is hereby *added* to Article 1, Chapter 8,  
14 Title 4 of the Guam Code Annotated, to read as follows:

15 "§8138.3. **Quorum; Voting.** (a) Four (4) or more board  
16 members physically in attendance shall constitute a quorum for all  
17 meetings of the Board of Trustees. Each Trustee shall be entitled  
18 to one (1) vote as a member of the Board of Trustees. Four (4)  
19 affirmative votes taken at a meeting of the Board of Trustees at  
20 which a quorum is present shall be considered valid acts of the  
21 Board of Trustees.

22 (b) Provided that a quorum is present at a Board meeting,  
23 members of the Board or any committee designated by the Board  
24 who are not physically present at a meeting of the Board may  
25 participate in a meeting of the Board, or of the committee, as the

1 case may be, by means of conference by telephone or similar  
2 communications equipment which provides all persons  
3 participating in the meeting with the ability to hear one another  
4 and speak and discuss. However, a vote by a Board member shall  
5 *not* be valid unless the Board member is physically present at the  
6 meeting.”

7 **Section 6.** A new §8138.4 is hereby *added* to Article 1, Chapter 8,  
8 Title 4 of the Guam Code Annotated, to read as follows:

9 **“§8138.4. Resignation; Vacancies; Disqualification. (a)**  
10 **No Courtesy Resignations.** After a gubernatorial election in which  
11 there is a change of administration of the government of Guam,  
12 courtesy resignations by Trustees elected to the Board of Trustees  
13 shall not be requested nor expected by the new administration.

14 **(b) Vacancies.** If there ever shall be a vacancy before the  
15 end of the term in any of the Offices 1 through 4, then the balance  
16 of the unexpired term of those offices shall be filled by the  
17 candidate(s) who received the next highest number of votes in the  
18 election in which the vacating Trustee was elected.

19 Should there be no eligible and willing candidate(s) to fill  
20 any vacancies in Offices 1 through 4, then the Board of Trustees,  
21 through a majority vote, shall select an ‘Interim Member’ to serve.  
22 The Interim Member must meet all required qualifications for the  
23 specific Office to which they are appointed. Interim Members  
24 have the same rights and voting privileges as elected and  
25 appointed members with the exception of their term of service. If

1 the length of the term remaining for the specific vacated Office is  
2 one (1) calendar year or less from the date of the vacancy, then the  
3 Interim Member shall serve until the end of the term. If the length  
4 of the term remaining for the specific vacated Office is greater than  
5 one (1) calendar year, then the Guam Election Commission shall  
6 conduct an election to fill the vacancy or vacancies in accordance  
7 with the provisions of this Article. In such case, the Interim  
8 Member shall serve until a Trustee is selected and certified  
9 through the election process, at which point the Interim Member is  
10 considered to have resigned.

11 (c) **Disqualification Upon Change in Status.** If the status  
12 of a Trustee changes after election, or after appointment and  
13 confirmation by *I Liheslaturan Guåhan* (e.g., an Elected Retiree or  
14 Elected Active Member or Appointed Resident no longer qualifies  
15 as such), then that change in status shall disqualify the Trustee  
16 from remaining in his or her respective office for the remainder of  
17 that term of office, and the Trustee shall be deemed to have  
18 resigned thirty (30) days following the event triggering the  
19 disqualification. Said disqualification shall not be the sole cause  
20 for invalidating actions taken prior to the deemed resignation  
21 date. The vacancy created by such deemed resignation shall be  
22 filled as described in (b), above.

23 (d) **Convicted Persons Disqualified.** A person convicted  
24 of a felony or a crime of moral turpitude shall be ineligible for  
25 appointment or election to, and shall be disqualified from service

1 on, the Board of Trustees. Conviction of a felony or a crime of  
2 moral turpitude while in office shall be deemed automatically to  
3 constitute immediate resignation as a Trustee, without the need  
4 for any action by the Board of Trustees to effect that resignation.”

5 **Section 7.** A new §8138.5 is hereby *added* to Article 1, Chapter 8,  
6 Title 4 of the Guam Code Annotated, to read as follows:

7 “§8138.5. **Rules and Regulations.** The Board of Trustees is  
8 authorized to establish rules and regulations to implement the  
9 provisions of 4 GCA §§8138 through 8138.4.”

10 **Section 8.** A new Article 4 is hereby *added* to Title 2 of Chapter 3  
11 of the Guam Administrative Rules and Regulations to read:

12 **“Article 4**

13 **Regulations Concerning the Election of Trustees**

14 **§3401. General Provisions. (a) Authority.** The Board of  
15 Trustees is authorized to establish rules and regulations to  
16 implement the provisions of 4 GCA §§8138 through 8138.4,  
17 pursuant to 4 GCA §8138.5.

18 **(b) Purpose.** To implement the provisions of 4 GCA  
19 §§8138 through 8138.4, as amended, relative to the election of  
20 members to serve on the Board of Trustees, and to provide  
21 procedures for the nomination and election of Active Members  
22 and Retirees to serve on the Board of Trustees.

23 **(c) Applicability.** These rules and regulations are  
24 applicable to initial and subsequent elections described in 4 GCA  
25 §8138.1 through §8138.4.

1           **§3402. Definitions.** Words and phrases, wherever used  
2 in this Article, unless a different meaning is clearly indicated by  
3 the context, shall have the following meanings:

4           (a) *Fund* means the Government of Guam  
5 Retirement Fund Defined Benefit Plan as defined in 4 GCA  
6 §8104(a).

7           (b) *Retirement System* means the Government of  
8 Guam Defined Contribution Retirement System as defined  
9 in 4 GCA §8201(a).

10          (c) *Board* means the Board of Trustees of the Fund  
11 and the Retirement System.

12          (d) *Trustee* means a member of the Board who has  
13 responsibility for the operation of the Fund and the  
14 administration of the Retirement System, and is charged  
15 with fiduciary duties in regard to management of the Fund  
16 and the Retirement System.

17          (e) *Member* means any government of Guam  
18 employee included in the membership of the Fund or the  
19 Retirement System, and includes:

20           (1) *Active Member* means an employee of the  
21 government of Guam who is employed and has been  
22 employed for at least five (5) years by the government  
23 of Guam, and is either (A) a member of the Fund as  
24 described in 4 GCA §§8105 and 8106, and contributes  
25 to the Fund in accordance with 4 GCA §8136; or (B) a

1 member of the Retirement System as described in 4  
2 GCA §§8201(m) and 8206.1, and who contributes to the  
3 Retirement System in accordance with 4 GCA §8208.

4 (2) *Inactive Member* means (A) any member  
5 who has not refunded contributions to the Fund  
6 pursuant to 4 GCA §8130, but is not contributing to the  
7 Fund in accordance with 4 GCA §8136, or (B) any  
8 member who is not contributing to the Retirement  
9 System in accordance with 4 GCA §8208, but has not  
10 elected to receive a distribution of the member's vested  
11 account balances pursuant to 4 GCA §8211(d). Inactive  
12 members are not eligible to run as candidates in an  
13 election of trustees to the Board of Trustees, but are  
14 eligible to vote for Elected Active Members in elections  
15 under this Article, regardless of where they are  
16 domiciled.

17 (3) *Retiree* means any member who is currently  
18 in receipt of a retirement annuity from the Fund or the  
19 Retirement System. To be eligible for nomination and  
20 election as an Elected Retiree, a Retiree must be  
21 domiciled in Guam. Retirees who are not domiciled in  
22 Guam remain eligible to vote for Elected Retirees. A  
23 Retiree who is currently employed by, or under  
24 contract with, the government of Guam shall be  
25 eligible for a position as an Elected Retiree, but shall



1                    *not* be eligible to vote for, or be nominated for a  
 2                    position as an Active Member.

3                    (f) *Candidate* means a person who has been certified  
 4                    by the Fund as eligible to run for a position on the Board and  
 5                    is (1) an Active Member of the Fund or Retirement System  
 6                    who has at least five (5) years total service credit as a  
 7                    member of the Fund or Retirement System at the time the  
 8                    member submits a self-nomination to the Board as provided  
 9                    by §3408(a); and/or (2) a Retiree who is domiciled in Guam.

10                    (g) *Total Service Credit* means a Fund member's prior  
 11                    service, membership service, and military service as defined  
 12                    in 4 GCA §8104(h), and subject to the limitations of 4 GCA  
 13                    §8130(a), or a Retirement System member's years of  
 14                    employment as defined in 4 GCA §8201(e).

15                    (h) *Interim Member* means a member chosen because  
 16                    of a vacancy in Offices 1 through 4, under the terms of the  
 17                    remedy contained in 4 GCA, §8138.4(b). The Interim  
 18                    Member must meet all required qualifications for the specific  
 19                    Office to which they are appointed.

20                    **§3403. Initial Election.** An initial election shall be  
 21                    conducted by the Guam Election Commission in accordance with  
 22                    4 GCA §8138.1, *no later than* February 1, 2004.

23                    **§3404. Subsequent Elections.** Subsequent elections  
 24                    shall be *held* in accordance with 4 GCA §8138.1 through §8138.4.



1           **§3405. Term of Office.** Each Board member elected or  
2 duly appointed shall serve a five (5) year term of office in  
3 accordance with 4 GCA §8138.2, except that a member who fills a  
4 vacancy may serve only the remainder of their predecessor's five  
5 (5) year term and may serve a shorter term, as provided in 4 GCA  
6 §8138.4 (b).

7           **§3406. Vacancy on Board.** Vacancies shall be filled in  
8 accordance with 4 GCA §8138.4.

9           **§3407. Notice of Election. (a) Requirement of Notice.**  
10 Except in the case of a runoff election, at least sixty (60) days prior  
11 to an election, the Fund shall give notice of an election. Such  
12 notice shall be given by publication in a local newspaper of daily  
13 general circulation and by publication in an official publication of  
14 the Fund.

15           **(b) Contents of Notice.** The Notice shall contain the  
16 following information:

- 17           (1) The purpose of the election;
- 18           (2) The term of the office for which the election will  
19 be held;
- 20           (3) The procedure and the deadline for submission of  
21 nominations to the Board as provided by §3408;
- 22           (4) The date(s) and times set by the Guam Election  
23 Commission for the election;
- 24           (5) The location or locations where voting will take  
25 place; and

1 (6) The procedure for requesting an absentee ballot  
2 from the Guam Election Commission.

3 **§3408. Qualifications of Candidates and Trustees. (a)**

4 **Submission of Candidate Statements and Nominating Petitions.**

5 Upon Notice being provided pursuant to §3407, a prospective  
6 Candidate seeking election shall submit a Candidate Statement  
7 and a Nomination Petition in the form provided by the Board.  
8 Said Nomination Petition shall be signed by no less than one  
9 hundred fifty (150) persons who are eligible to vote as members or  
10 retirees of the Fund or Retirement System. A prospective  
11 Candidate shall indicate on the Candidate Statement whether  
12 he/she seeks Office as an Active Member or a Retiree. If the  
13 prospective Candidate seeks nomination as a Retiree, the  
14 prospective Candidate shall certify that he/she is domiciled in  
15 Guam.

16 **(b) Deadline for Statements of Candidates.** For each  
17 election, the Board shall set a deadline for submission of  
18 Candidate Statements. Names of prospective Candidates whose  
19 Nomination Petitions are received subsequent to the deadline  
20 specified in the Notice provided under §3407(b) shall not be  
21 placed on the ballot for that election.

22 **(c) Certification of Qualifications of Candidate.** Upon  
23 receipt of a Candidate Statement and Nomination Petition, the  
24 Fund shall certify that the Candidate is qualified to run for the  
25 position on the Board that the Candidate seeks. If the Candidate is

1 not qualified to run for a position on the Board, the Fund shall  
2 inform the Candidate of the reason for the disqualification prior to  
3 the date of the election. If a Candidate is certified by the Fund,  
4 then the Candidate's name shall be placed on the ballot. A  
5 Candidate shall be placed on a ballot only after certification from  
6 the Fund that the Candidate is qualified to run for election.

7 **(d) Retirement Fund Employees Disqualified from**  
8 **Candidacy and Office.** Employees of the Retirement Fund shall  
9 be ineligible for election or appointment to the Board of Trustees.

10 **(e) Convicted Felons Disqualified from Candidacy and**  
11 **Office.** A person convicted of a felony shall be ineligible for  
12 appointment to, election to, or service on, the Board of Trustees.

13 **§3409. Ballots. (a) Form of Ballot.** As soon as practicable  
14 after certification, the Guam Election Commission shall cause  
15 ballots to be prepared. The ballots may be separate for the election  
16 of Active Members and Retirees, respectively. Each ballot shall  
17 have printed thereon the name of each Candidate to which the  
18 respective ballot applies. The Guam Election Commission may, in  
19 its discretion, determine the ordering of names on the ballot  
20 alphabetically, at random, or in another neutral fashion.

21 **(b) Publication of Ballot.** The Guam Election Commission  
22 shall publish a sample ballot(s) in a local newspaper of daily  
23 general circulation one (1) week prior to the day of the election,  
24 and on the day of the election.

1           (c) **Voters List.** The Board of Trustees shall provide the  
2 Guam Election Commission with a list of voters who shall be  
3 Retirees or Active Members of the Retirement System, either the  
4 defined benefit or the defined contribution plan. Said list shall  
5 contain the names of all Members and Retirees of the Fund and  
6 the Retirement System who shall be eligible to vote in the election,  
7 and the respective categories in which they are eligible to vote.  
8 The list shall reflect the category in which each voter is allowed to  
9 vote, and is based on that person's status six (6) months before the  
10 date of the election. Such list shall be available for review at the  
11 Fund office at least two (2) weeks prior to the election. If notice is  
12 not given to the Board of Trustees at least one (1) week prior to an  
13 election, that a Member or Retiree is categorized incorrectly on the  
14 voters list, the category and eligibility of the voter as listed shall be  
15 conclusive for that election.

16           **§3410. Conduct of Election.** The Guam Election  
17 Commission shall be responsible for conducting the elections  
18 under 4 GCA §8138.1, including the disbursement, collection, and  
19 counting or recounting of absentee ballots, but may engage an  
20 independent firm or company to assist in the election process.

21           **§3411. Declaration of Result of Elections.** Upon receipt  
22 of the results certified by the Guam Election Commission, or in an  
23 election in which a recount shall have been requested, the recount  
24 results certified by the Guam Election Commission, the Board  
25 shall declare elected the Candidate(s) receiving the highest

1 number of votes for each Office up for election. In the event that  
2 there is a tie between two (2) or more Candidates for an open  
3 Office, the Board shall order a runoff election. The Board member  
4 holding the position prior to the election may remain in the  
5 position in accordance with 4 GCA §8138.2 pending the results of  
6 the runoff election.

7 **§3412. Runoff Election. (a) Declaration of Runoff**  
8 **Election.** Upon the Board determining that a runoff election is  
9 required, the Board shall order a runoff election to be held as soon  
10 as practicable, but no later than sixty (60) days following the  
11 announcement of the results of the election that precipitated the  
12 need for the runoff election, or in the case of a recount following  
13 an election, *no later than* sixty (60) days following the  
14 announcement of the results of the recount. Notice of a runoff  
15 election shall be given as soon as practicable in a daily newspaper  
16 of general circulation. In the event that there is a tie between two  
17 (2) or more Candidates for one (1) or two (2) open Offices, the  
18 Board shall order a runoff election consisting only of the  
19 Candidates who received the same number of votes requiring a  
20 runoff. Unless otherwise expressly provided herein, the  
21 procedures for an election shall apply to a runoff election.

22 **(b) Conduct of Runoff Election.** The Guam Election  
23 Commission shall be responsible for conducting the runoff  
24 election, including the disbursement, collection, and counting of  
25 absentee ballots, and may, in its discretion, retain the services of

1 an independent firm or company to oversee and implement the  
2 runoff elections.

3           **§3413. Interim Member Election. (a) Declaration of**  
4 **Interim Member Election.** Upon the Board determining that an  
5 Interim Member Election is required, the Board shall order an  
6 Interim Member Election to be held as soon as practicable, but at  
7 least ninety (90) days and no greater than one hundred twenty  
8 (120) days following the vacancy that precipitated the need for the  
9 Interim Member Election. Notice of an Interim Member Election  
10 shall be given as soon as practicable in a daily newspaper of  
11 general circulation. Unless otherwise expressly provided herein,  
12 the procedures for an election shall apply to an Interim Member  
13 Election *except* that the Interim Member Election shall be held only  
14 to fill a specific vacancy or vacancies.

15           **(b) Conduct of Interim Member Election.** The Guam  
16 Election Commission shall be responsible for conducting the  
17 Interim Member Election, including the disbursement, collection,  
18 and counting of absentee ballots, and may, in its discretion, retain  
19 the services of an independent firm or company to oversee and  
20 implement the Interim Member Election.

21           **§3414. Recount of Ballots.** Any Candidate dissatisfied with  
22 the result of the count as to his election, may, within three (3) days  
23 of the official certification of the person or persons elected to the  
24 Board, request a recount of the ballots pertaining to his election by  
25 filing such a request in writing with the Guam Election

1 Commission, which shall, as soon as practicable, conduct a  
2 recount of the ballots, *provided* the official total number of votes  
3 received by the requesting Candidate is within one percent (1%) of  
4 the total number of votes of the Candidate that received the  
5 highest number of votes for the office in which the challenge is  
6 being made.

7           **§3415. Recall of Elected Members. (a) Recall of Elected**  
8 **Retiree Members.** The Guam Election Commission shall hold a  
9 recall election of an elected Retiree Member within ninety (90)  
10 days of certification of a petition signed by not less than a number  
11 of Retirees equal to or greater than fifty percent (50%) of the  
12 Retirees who voted in the last election or by resolution of *not less*  
13 *than* two-thirds (2/3) of the voting membership of the Board of  
14 Trustees.

15           **(b) Recall of Elected Active Members.** The Guam Election  
16 Commission shall hold a recall election of an elected Active  
17 Member within ninety (90) days of certification of a petition  
18 signed by not less than the number of Active Members equal to or  
19 greater than fifty percent (50%) of the Active Members who voted  
20 in the last election or by resolution of *not less than* two-thirds (2/3)  
21 of the voting membership of the Board of Trustees.

22           (c) The time to gather signatures for such recall petition  
23 shall be the same as that for the Office of *I Maga'lahi*.

24           (d) Vacancies shall be filled in a manner consistent with the  
25 provisions of this Chapter.

1           **§3416. Adoption of Rules and Regulations Governing**  
2           **Elections.** These rules and regulations shall be *amended* in  
3           accordance with the Rule-Making Procedures of the  
4           Administrative Adjudication Law, Title 5, Chapter 9, Article 3 of  
5           the Guam Code Annotated."

6           **Section 9. Implementation of Election.** The Guam Election  
7           Commission shall conduct the initial and subsequent elections  
8           authorized under this Act.

9           **Section 10.** Section 7 of this Act is considered part of the Guam  
10          Administrative Rules and may be further *amended* through the  
11          Administrative Adjudication process.

12          **Section 11. §8173 is added to Article 1, of Chapter 8 of Title 4,**  
13          **Guam Code Annotated to read:**

14                 **"§8173. Restriction from Transfers.** Except as authorized  
15                 by the Board of Trustees, no transfers of funds are authorized from  
16                 any Retirement Fund account to the General Fund or any other  
17                 fund of the government of Guam. *I Maga'lahi* shall have *no*  
18                 transfer authority over any Retirement Fund accounts."

19          **Section 12. Severability.** *If* any provision of this Act or its  
20          application to any person or circumstance is found to be invalid or  
21          contrary to law, such invalidity shall *not* affect other provisions or  
22          applications of this Act that can be given effect without the invalid  
23          provisions or application, and to this end the provisions of this Act are  
24          severable.