
AN ACT

TO AMEND PUBLIC LAW 6-17 TO MAKE TECHNICAL CORRECTIONS
AND ADMINISTRATIVE AMENDMENTS TO THE LAW AND FOR OTHER
PURPOSES.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Definition. 1 CMC Section 8314(k), (o), and
2 (w) are repealed and reenacted to read as follows:

3 "(k) "Member" means a Class I member and a Class
4 II member. A member who retires or otherwise terminates
5 employment shall remain a member so long as her or she
6 retains a right to any benefits from the fund. Such
7 member will retain the same class of membership held at
8 the time of retirement or separation. Upon subsequent
9 reemployment in a position eligible for membership, such
10 member shall, except as provided in section 83316, also
11 retain the same class of membership held at the time of
12 retirement or separation.

13 (o) "Salary" means the amount received by an
14 employee for service as shown on the employee's Form
15 W-2, Wage and Tax Statement except as follows:

16 (i) If an employee was reinstated to his/her
17 position through court action or otherwise, and the
18 employee received back wages from the date of
19 termination, such wages shall be allocated to the year
20 or years covered for such back wages.

1 (ii) If the wages earned are finally
2 determined by the court to be illegally obtained,
3 the Fund shall reimburse to the government the
4 employee contribution allocable to the illegal
5 wages. Further, the fund shall exclude the illegal
6 wages from the member's salary for all purposes.
7 If the fund previously paid any benefits which
8 recognized all, or any part, of the illegal wages
9 in the member's salary, the fund shall recompute
10 such benefits after excluding the illegal wages in
11 the member's salary and shall recoup all
12 overpayments made to any person as a result of
13 previously including the illegal wages.

14 (w) "Vesting Service" means the sum of credited
15 service, education service and military service, which
16 service shall be deemed creditable for the purpose of
17 determining a member's eligibility for the additional
18 five (5) years of credited service pursuant to Article
19 III, Section 20 of the Constitution. Vesting Service
20 shall only be used to determine whether a member is
21 eligible for benefits and shall not be used to determine
22 the amount of benefits to be paid to a member."

23 Section 2. Election of Membership Class.

24 (A) 1 CMC Sections 8321(b) and (c) are repealed
25 and reenacted to read as follows:

1 "(b) Exercise of the option may be made
2 anytime after the effective date of Public
3 Law 6-17.

4 (c) All members electing to transfer
5 membership from Class II to Class I shall receive
6 a refund of the additional 2.5% of salary member
7 contributions made to the Fund, plus regular
8 interest thereon, for a maximum period of 12
9 months beginning from the effective date of Public
10 Law 6-17."

11 (B) 1 CMC Section 8321 is amended to add a new
12 Subsection (d) to read as follows:

13 "(d) Membership - Effective Date.
14 Notwithstanding other provisions of Public Law 6-17
15 and this act, membership in the Fund shall become
16 effective ninety (90) days following the effective
17 date of employment. Upon completion of the 90
18 days, the employee shall be given credit from the
19 date of employment. The employee's and employer's
20 contributions shall be withheld by the employer from
21 the date of employment and remitted to the Fund as
22 provided under Public Law 6-17. During the 90 day
23 period, the employee shall be covered for only
24 occupational disability and death benefits
25 available to members; except that a member with at
26 least 18 months of vesting service credit
27 accumulated prior to reemployment shall be eligible

1 for non-occupational disability and other benefits
2 as provided by Public Law 6-17. No other benefits
3 shall accrue to the employee during this period."

4 Section 3. Prior Service Credit for Class I Members.

5 1 CMC Section 8323 is amended to add a new Subsection (c) to
6 read as follows:

7 "(c) Services rendered to the Micronesian Legal
8 Services Corporation before May 7, 1989 provided such
9 service was rendered in the Northern Mariana Islands."

10 Section 4. Requirements for Credit for Prior Service
11 for Class I Members. 1 CMC Section 8324 is amended to add

12 a new subsection 8324(b)(iv) to read as follows:

13 "(iv) 6.5% of all salary received for such prior
14 service performed for the Micronesian Legal Services
15 Corporation after October 1, 1980 and before May 7,
16 1989."

17 Section 5. Prior Service Credit for Class II Members.

18 (A) 1 CMC Section 8325(a) is repealed and
19 reenacted to read as follows:

20 "(a) In the case of any Class II member who
21 has made any contribution to the Retirement Fund in
22 connection with service for which he is entitled to
23 prior service credit, and who has received any
24 refund of that contribution, the allowance of prior
25 service credit shall be conditioned upon the person
26 making a contribution to the Fund in the full
27 amount of refund. Payment of such contributions

1 shall be made in lump sum, or in installments as
2 provided for Class I members. Regular interest
3 thereon shall begin to accrue from the operative
4 date, which interest shall become a part of the
5 principal sum to be paid by the person."

6 (B) 1 CMC Section 8325(f) is repealed in its
7 entirety.

8 Section 6. Normal Retirement Benefits for Class I and
10 Class II Members.

11 (A) 1 CMC Sections 8331(d) and 8334(f) are
12 repealed and reenacted to read as follows:

13 "For service rendered by a member after January
14 8, 1978 as Governor, Judges of the Commonwealth
15 Government, Lieutenant Governor, Mayor, member of
16 the legislature, Resident Representative to the
17 United States, an additional three percent times
18 average annual salary times years of service in
19 such capacity, provided, however, that such
20 additional credit may not increase the annuity
21 payable to more than 100% of the highest annual
22 salary received. The same benefits shall accrue to
23 former members of the Marianas District
24 Legislature, whose service was rendered prior to
25 January 8, 1978, provided,

1 however, that these benefits shall not be
2 retroactive but be computed forward from the
3 effective date of this amendment."

4 (B) To add new Subsection (e) of Section 8331 to
5 read as follows:

6 "Notwithstanding any other provision of law or
7 of this act, any person who served as a board
8 member or any autonomous agencies of the government
9 of the Commonwealth of the Northern Mariana Islands
10 and who is not a member or a retiree of the NMI
11 Retirement Fund shall be eligible to receive the
12 minimum annuity to which a Class I member is
13 entitled after having served as a member of the
14 board or commission for at least 10 years. Such
15 benefit shall be payable upon attaining age 62 and
16 the person no longer serving as board member.
17 Application for benefit shall be made on the same
18 terms and conditions applicable for a Class I
19 member. Survivors of such a person shall be
20 treated the same as survivors of Class I members
21 after such person has served 10 years as a member
22 of a board. No benefit is due or payable to any
23 person having less than 10 years of service as a
24 board member. Cost of living allowance as
25 applicable to Class I members shall also apply in
26 this case."

1 Section 7. Early Retirement. 1 CMC Section 8332 is
 2 amended to add a new Subsection (c) to read as follows:

3 "(c) Members electing to take early retirement
 4 shall receive at least \$1,200 per year in annuity
 5 benefits."

6 Section 8. Benefits - Survivor Annuities for Class I
 7 Members. 1 CMC Section 83310(a) and (c) are repealed and
 8 reenacted to read as follows:

9 "(a) If a spouse and children survive, spouse and
 10 children's annuities shall begin as of the date of
 11 death of the member, and shall continue until such minor
 12 children attain the age of 18 year, or 22 if full time
 13 student, are married, or die. Spousal benefits
 14 discontinued by virtue of these provisions shall be
 15 reinstated upon the spouse attaining age 35. The spouse
 16 shall be eligible for the cost of living increase of 2%
 17 per annum upon attaining age 62 commencing on the
 18 anniversary of the spouse's annuity date, calculated
 19 utilizing simple interest. Spousal benefits shall
 20 discontinue upon a spouse's remarriage or death.

21
 22 (c) If a spouse survives the member, and there are
 23 no minor children, spousal benefits will commence upon
 24 the spouse attaining age 35. The spouse shall be
 25 eligible for the cost of living increase of 2% per annum
 26 upon attaining age 62 commencing on the anniversary of

1 the spouse's annuity date, calculated utilizing simple
2 interest. Spousal benefits shall discontinue upon a
3 spouse's remarriage or death."

4 Section 9. To Amend 1 CMC Section 83310 to add a new
5 Subsection 83310(f) to read as follows:

6 "Notwithstanding other provisions of Public
7 Law 6-17 and this act, the surviving spouse or any
8 person who:

9 (i) was hired by the government of the
10 Commonwealth of the Northern Mariana Islands after
11 October 1, 1980 but before May 7, 1989,

12 (ii) was 60 years of age or older on such
13 hire date, and

14 (iii) accumulated 20 or more years of service
15 rendered in the Commonwealth of the Northern
16 Mariana Islands to the government of the Trust
17 Territory of the Pacific Islands and the
18 Commonwealth of the Northern Mariana Islands, shall
19 be eligible for surviving spouse benefits under 1
20 CMC Section 83311."

21 Section 10. To Amend 1 CMC Sections 83311 and 83313 to
22 add new subsections 83311(e) and 83313(c) to read as follows:

23 "Notwithstanding other provisions of Public Law
24 6-17 and this act, surviving spouse of deceased member
25 to whom 1 CMC sections 8331(d) and 8334(f) would have
26 applied shall have their benefits recomputed to include
27 the additional benefits provided under such sections.

1 The increase due to this recomputation shall be
2 effective on May 7, 1989."

3 Section 11. To repeal and reenact the introductory
4 paragraph of 1 CMC Section 83316 to read as follows:

5 "No refund of contributions shall be permitted for
6 Class I members upon complete separation from government
7 service. Refund of contributions shall be permitted for
8 Class II members as follows:"

9 Subsections (a), (b), (c) and (d) of 1 CMC
10 Section 83316 shall remain as enacted by Public
11 Law 6-17.

12 Section 12. 1 CMC Section 8351(j) (k) and (k)(i) are
13 repealed and reenacted to read as follows:

14 "(j) Notwithstanding any other provision of this
15 section, no member shall be excluded from participating
16 in a Home Mortgage Loan Program of the Fund.

17 (k) The Board shall under no circumstances allow
18 investments in a corporation, business enterprises, or
19 other investment securities of such business entities
20 it knows to be engaged in:

21 (i) any form or degree whatsoever in the
22 ocean disposal of nuclear wastes."

23 Section 13. Contribution to the Fund: By the
24 Government. 1 CMC Section 8342(a)(1) and (2) is repealed and
25 reenacted to read as follows:

26 "(1) For Class I members: an amount equal to the
27 sum of normal cost determined under an acceptable

1 actuarial funding method, allowance for expenses,
2 interest on any due but unpaid obligations, plus an
3 amount sufficient to amortize the initial unfunded
4 liability as a level percentage of total payroll over
5 specified period, as determined by the Board upon
6 recommendation of the actuary, but not to exceed a
7 period of 40 years from the effective date.

8 (2) For Class II members: an amount equal to the
9 sum of normal cost determined under an acceptable
10 actuarial funding method, allowance for expenses,
11 interest on any due but unpaid obligations, plus an
12 amount sufficient to amortize any unfunded accrued
13 liability as a level percentage of total payroll over a
14 specified period, as determined by the Board upon
15 recommendation of the actuary, but not to exceed a
16 period of 40 years from the effective date."

17 Section 14. Benefit Consolidation. 1 CMC Section 83810
18 is repealed and reenacted to read as follows:

19 "No Class I member shall be eligible for more than
20 one benefit at any one time. Annuitants who have a
21 choice among benefits available to them shall elect
22 which benefit they are to receive benefits under. In
23 the absence of an election by the employee, the
24 Administrator shall elect which benefit the annuitant is
25 to receive benefits under. A change in category of
26 benefits to be received by an annuitant may be
27 effectuated by the annuitant filing a written request

1 indicating what category of benefit the annuitant elects
 2 to receive. An election for a change in category of
 3 benefit shall only be authorized twice."

4 Section 15. Reemployment and Double Dipping. 1 CMC
 5 Section 83811 is repealed and reenacted to read as follows:

6 "(a) A person who has retired and received
 7 retirement benefits from the Government of the Northern
 8 Mariana Islands shall not be employed by or under an
 9 employment or consulting contract with the Government of
 10 the Northern Mariana Islands or its public corporations,
 11 boards or commissions unless the person is:

12 (1) Appointed by the Governor to a position
 13 requiring the advice and consent of the Senate or
 14 House of Representative or both.

15 (2) Hired in a position for which
 16 professionals are not readily available in the
 17 local labor market, including, for example:
 18 Teachers for the Public School System and the
 19 Northern Marianas College, attorneys for the
 20 offices of the Attorney General and Public
 21 Defender, nurses and doctors for the Commonwealth
 22 Health Center, audit staff for the Office of the
 23 Public Auditor, and former elected officials.

24 (3) Elected to Public Office.
 25 A retiree hired under any of the above exceptions
 26 shall have his/her benefits terminated for the
 27 duration of the employment or office. Upon

1 retirement, the benefit shall be recomputed based
2 on the additional service and wages earned. During
3 the employment or office, contributions to the Fund
4 shall be mandatory. Except for positions stated
5 above, all Government consulting contracts and
6 employment application forms and agreements shall
7 contain a declaration to be made under penalty of
8 perjury, stating that the employee or independent
9 contractor has not retired from and is not
10 receiving retirement benefits from the Commonwealth
11 Government.

12 (b) A person who has retired and received a
13 retirement benefit shall not be eligible to receive
14 prior service credit if the person continues to receive
15 retirement benefits from the Government while accruing
16 service that is eligible for credit as prior service
17 credit upon reemployment with the Government.

18 (c) Provided, however, that any person who elected
19 to retire pursuant to the provisions of Article III
20 Section 20(b) of the Commonwealth Constitution may be
21 employed by the Commonwealth for no more than 60
22 calendar days in any fiscal year without forfeiting any
23 retirement benefits."

1 Section 16. To add new Section 8318 to 1 CMC Division
2 8 to read as follows:

3 "Section 8318. Members of Retirement Fund:
4 Immunity from or indemnification for Civil Liability;
5 Defense of Members.

6 (a) For purposes of this section, "member" means a
7 trustee or employee of the NMI Retirement Fund.

8 (b) Notwithstanding any law to the contrary, no
9 member shall be liable in any civil action founded upon
10 a statute or the case law of this Commonwealth for
11 damage, injury, or loss caused by or resulting from the
12 member's performing or failing to perform any duty which
13 is required or authorized to be performed by a person
14 holding the position to which the member was appointed,
15 unless the member acted with a malicious or improper
16 purpose, except when the plaintiff in a civil action is
17 the Commonwealth.

18 (c) Except as provided in subsections (d) and (f),
19 the Commonwealth shall indemnify a member from liability
20 by paying any judgment in, or settlement or compromise
21 of any civil action arising under federal law, the law
22 of another state, or the law of a foreign jurisdiction,
23 including fees and costs incurred, unless the loss,
24 injury or damage for which the judgment or settlement
25 amount required to paid:

26 (1) is fully covered by a policy of insurance
27 for civil liability purchased by the Commonwealth;

1 (2) Is caused by or is the result of the
2 member's performing an act authorized or required
3 to be performed by a person holding the position to
4 which the member was appointed so as to effect a
5 malicious or improper purpose;

6 (3) Is caused by or is the result of the
7 member's failure to perform an act required or
8 authorized to be performed by a person holding the
9 position to which the member was appointed so as to
10 effect a malicious or improper purpose.

11 (d) The Commonwealth shall not indemnify a member
12 who would otherwise be entitled to indemnification under
13 subsection (c), if the member fails to cooperate fully
14 under the defense of the civil action which is made
15 available to the member under subsection (c). The
16 Commonwealth shall not indemnify a member for any
17 portion of a judgment that represents punitive or
18 exemplary damages.

19 (e) The attorney general shall represent and defend
20 a member in any civil action for which immunity is
21 conferred under subsection (b), or when the attorney
22 general determines that indemnification is available to
23 the member under subsection (c) and the member against
24 whom the action is brought has submitted a written
25 request for representation and has provided the attorney
26 general with all process or complaint served upon the
27 member within a reasonable period of time, but no more

1 than five days after being served with the process or
2 complaint. The attorney general may terminate the
3 representation and defense of the member at any time if,
4 after representation and defense is accepted, the
5 attorney general determines that indemnification would
6 not be available to the member under subsection (c).

7 (f) A member may retain counsel of the member's own
8 choice at the member's own expense. If the member
9 chooses to retain counsel at the member's own expense,
10 the Commonwealth shall not indemnify the member even
11 though the member would have been entitled to
12 indemnification under subsection (c). The attorney
13 general may enter an appearance in any action in which
14 the member is represented by counsel of the member's own
15 choice, even though no request for the appearance has
16 been made by the member.

17 (g) Nothing in this section precludes a member from
18 compromising or settling any claim against the member at
19 the member's own expense. If such a settlement or
20 compromise is effected, however, he shall be deemed to
21 have waived any claims which the member might have made
22 under this section less the provisions of subsection (i)
23 apply.

24 (h) If the attorney general denies representation
25 to the member under subsection (c) and the member
26 proceeds to judgment in the action for which
27 representation was denied, the member may commence an

1 action against the Commonwealth in the Superior Court to
2 recover reasonable costs and fees incurred by the member
3 in defending against that action, including attorney's
4 fees, court costs, investigative costs, and expert
5 witness fees. The Commonwealth shall pay the judgment
6 or reimburse the member if the member has satisfied the
7 judgment in an action for which representation was
8 denied; provided the member was found not liable in that
9 action or the member established by a preponderance of
10 the evidence that the member is entitled to
11 indemnification under subsection (c). A finding of
12 negligence against the member in the civil action for
13 which representation was denied shall not be binding
14 upon the Superior Court in any action brought under this
15 subsection. The member shall commence any action under
16 this subsection no later than two years after entry of
17 judgment in the action for which the member was denied
18 representation if no appeal is filed, or two years after
19 the conclusion of the final appeal from the judgment if
20 an appeal is filed.

21 (i) If the attorney general denies representation
22 to the member under subsection (e) and the member
23 negotiates a compromise or settlement without any entry
24 of judgement in the action for which representation was
25 denied, the member may seek to introduce a bill in the
26 legislature to secure an appropriation to reimburse the
27 member for the amount of the settlement or that portion


1 which constitutes a reasonable settlement, and for
2 reasonable costs and fees incurred by the member in
3 defending against that action, including attorney's
4 fees, court costs, investigative costs, and expert
5 witness fees.


6 (j) Any moneys which the Commonwealth is required
7 to pay a member under this section shall be paid from an
8 appropriation made by the legislature at the next
9 session after the requirement to pay inures to the
10 member. The appropriation shall be sufficient to
11 include any postjudgment interest which the member was
12 required to pay if the member has personally satisfied
13 the judgment, or at an appropriate rate for the period
14 from the entry of judgment for which indemnification is
15 available until the appropriation is enacted if the
16 judgment was not satisfied. Any bill necessary to
17 effect a payment required by subsections (h) and (i)
18 shall be submitted by the member to a legislator; all
19 other bills necessary to effect payments required by
20 this section shall be initiated by the attorney general.

21 (k) This section shall not be construed as
22 eliminating, waiving, reducing, or limiting any defense,
23 immunity, or jurisdictional bar conferred upon or
24 available to a member or the Commonwealth by any other
25 statute or by case law.

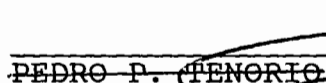
1 (1) This section shall apply to all causes and
2 actions not reduced to judgment. This section shall
3 apply to any action arising under federal law, the law
4 of another state, or the law of foreign jurisdiction.
5 Section 17. Effective Date of Public Law 6-17. Public
6 Law 6-17 shall be deemed effective on May 7, 1989.
7 Section 18. Effective Date. This Act shall be
8 effective upon approval by the Governor or upon becoming law
9 without such approval.

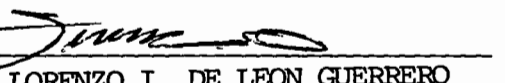
ATTEST:


BENIGNO M. SABLAN
Vice Speaker
House of Representatives


FRANCES P. HERNANDEZ
Acting House Clerk
House of Representatives

JANUARY 19th, 1990

 PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands

 LORENZO I. DE LEON GUERRERO