

TITLE 1: GOVERNMENT  
DIVISION 8: PUBLIC EMPLOYMENT

**§ 8362. Contributions to Fund: By Government.**

(a) The government shall make contributions to the fund each year on an actuarially funded basis toward the annuities and benefits provided for this part. These contributions shall be equal to the sum of the following:

(1) *For Class I Members:* An amount equal to the sum of normal cost determined under an acceptable actuarial funding method, allowance for expenses, interest on any due but unpaid obligations, plus an amount sufficient to amortize the initial unfunded liability as a level percentage of total payroll over specified period, as determined by the board upon recommendation of the actuary, but not to exceed a period of 40 years from October 1, 2005.

(2) *For Class II Members:* An amount equal to the sum of normal cost determined under an acceptable actuarial funding method, allowance for expenses, interest on any due but unpaid obligations, plus an amount sufficient to amortize any unfunded accrued liability as a level percentage of total payroll over a specified period, as determined by the board upon recommendation of the actuary, but not to exceed a period of 40 years from October 1, 2005.

(b) Each autonomous agency, instrumentality or public corporation of the Commonwealth government shall contribute a similar amount as the government contribution rate of the gross salary or wages of its active employees to the fund on behalf of its employees.

(c) The Director of Finance and the head of each autonomous agency and public corporation shall withhold the employee's contributions and remit said amount to the fund within five working days following the end of each payroll date.

(d) Each autonomous agency and public corporation shall remit their employer's contribution concurrently with the employee's contribution.

(e) Any employer who fails to pay or remit contributions as required by this part shall pay a penalty on the amount of unpaid contributions of 10 percent if paid within 30 days after the payment is due, 20 percent if paid within 60 days after the payment is due, and 25 percent if paid within 61 days or more after payment is due.

(f) A copy of all personnel action forms shall be provided to the fund.

(g) *Employer Retirement Contribution Mandate.* Notwithstanding any law or regulation to the contrary, the Commonwealth government, its departments, divisions, municipalities, public corporations, autonomous agencies, and offices shall prioritize and pay the full retirement employer contributions of government employees who are eligible to retire from government service.

**Source:** PL 6-17, ch. 4, § 8342; amended by PL 6-41, § 13; (a)(1) and (2) repealed and reenacted by PL 15-14, § 2; (e) repealed and reenacted by PL 16-2 § 9; (g) added by PL 16-36 § 2.

**Commission Comment:** With respect to the reference to the "Director of Finance," see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

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PL 15-14 was enacted on June 16, 2006, and contained the following findings and purpose provision in addition to severability and savings clauses and an amendment to 1 CMC § 8366:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that, due to the fiscal crisis now affecting the Commonwealth of the Northern Mariana Islands, it is necessary to extend the date for full funding of the NMI Retirement Fund's defined benefit plan. This extension is intended to relieve, in the near term, some of the pressure on the government to satisfy obligations to the Fund. The Legislature finds that this relief is a critical element of the CNMI's budget stabilization plan. The Legislature finds that, as of October 1, 2045, the NMI Retirement Fund should be fully funded.

Furthermore, on June 16, 2006, PL 15-15 was enacted and suspended the Commonwealth Government's employer contributions to the NMI Retirement Fund for the remainder of fiscal year 2006 and for fiscal year 2007. PL 15-15 stated in pertinent part:

Section 1. Findings and Purpose. The Legislature finds that the defined benefit plan offered by the Northern Mariana Islands Retirement Fund is only 46% funded. Although the Fund has assets of approximately \$400 million (as of October 1, 2004), it is saddled with an unfunded liability of approximately \$470 million. Based on the most recent actuarial report, the Commonwealth Government faces an unfunded liability whose present value is, on average, \$58,537.80 for each of the 8,029 participants in the Commonwealth's defined benefit plan. The unfunded liability was created principally because of (1) various amendments to the Retirement Fund Act that have granted new and increased benefits to participants and (2) the Commonwealth government's financial inability to remit the actuarially required employer contributions to the Fund.

This Act moves the Commonwealth closer to a restoration of its public finances and an assurance that it can meet its obligations to its citizens, public employees, and retirees. The purpose of this Act is to authorize the Commonwealth Government to suspend the government obligations owing to the Northern Mariana Islands Retirement Fund for the remainder of fiscal year 2006 and 2007.

Section 2. Suspension Authorized, FY 2007 Inclusive.

(a) To assist the Commonwealth Government in addressing the fiscal emergency it faces for the remainder of FY 2006 and FY 2007, the Governor or his designee may suspend the employer contributions due under 1 CMC § 8362 for the remainder of FY 2006 retroactive to March 1, 2006 and FY 2007 from the General Fund to the Northern Mariana Islands Retirement Fund. Provided, however, that in the event that a budget surplus is realized, the Secretary of Finance shall remit the identified surplus to the Fund to cover the employer contributions suspended under this Act with interest based on the current prevailing rate.

(b) The Board of Trustees of the Fund may meet any shortfall in cash flow arising from the suspension by drawing upon the Fund's investment earnings and other assets.

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For more information regarding PL 16-2, see comment to 4 CMC § 8143.

PL 16-36 was enacted on April 15, 2009. PL 16-36 contained severability and savings clause provisions and the following:

Section 1. Findings and Purpose. The Legislature finds that the Northern Mariana Islands (NMI) Retirement Fund, through Board Resolution No. 08-001, adopted a policy to suspend all applications for retirement benefits due to the Commonwealth government's inability to pay its employer contributions to the NMI Retirement Fund for more than two years. However, unlike the Commonwealth government, employees continue to pay their employee contributions to the Fund.

The Legislature further finds that many government employees are eligible to retire but cannot do so because of the NMI Retirement Fund's policy to suspend all retirement applications at this time. The Legislature finds that Article III, Section 20(a) of the NMI Constitution provides that "[a]ccrued benefits of [the retirement] system shall be neither diminished nor impaired." The NMI Retirement Fund's policy to suspend all retirement applications and the Commonwealth government's inability to pay its employer contributions are impairing the accrued benefits of the members of the NMI Retirement Fund. The Legislature finds that the Commonwealth government could realize savings on personnel costs by allowing eligible government employees to retire at this time. Moreover, eligible government employees have a right to retire from government service at the time of their choosing not at the time the government decides to pay its employer contributions to the NMI Retirement Fund. Accordingly, the purpose of this legislation is to require the Commonwealth government to prioritize and pay its retirement employer contributions for government employees who are eligible to retire from government service.