

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8368. Employer Retirement Contribution.

(a) Notwithstanding 1 CMC § 8362 or any other provision of law, the Public School System (PSS) and employers of employees funded by the General Fund shall remit a retirement contribution of 18%* of the total salary of the employee. Except as provided by law, employer retirement contributions under this section shall be deducted from the agency's personnel appropriations. The Secretary of Finance shall remit employer retirement contributions not later than the end of each quarter of the fiscal year. This section shall be retroactive to October 1, 2007.

(b) Any difference between the actuarially calculated contribution rate and the sum remitted by the employer shall accrue as a liability for the government and shall not be excused or waived by this provision.

(c) This section shall apply to salaries funded from the general fund and salaries from other locally generated revenue sources of autonomous agencies and public corporations.

(d) Any savings realized by PSS as a result of this section shall be applied to the "all others" account in the PSS budget, and shall be apportioned to the schools for budgetary needs according to student population. The expenditure authority for apportioned funds shall be the Commissioner of Education.

(e) The Northern Mariana Islands Retirement Fund (NMIRF) is authorized to liquidate assets held to cover any shortfall in retiree distributions.

Source: PL 15-126, § 2; (a) suspended for Fiscal Year 2008, (c) repealed and reenacted and (d) amended by PL 16-2 § 7; *(a) temporarily amended by PL 16-32 §608(a).

Commission Comment: Public Law 15-126 was enacted on January 24, 2008, and contained the following findings and purpose in addition to severability and savings provisions:

Section 1. Findings and Purpose. The Commonwealth Legislature finds that the suspension of employer retirement contribution payments under Public Law 15-15 expired on September 30, 2007. The Legislature finds that the current employer retirement contribution rate, as determined by an actuarial study, is 36.7%. Due to a drastic decrease in resources over the past 24 months, however, the CNMI Government can only afford to remit a reduced contribution rate of 18% for salaries paid from the General Fund. The difference between the 18% and 36.7% contribution will accrue as a liability to the government. The purpose of this Act is to meet the government's obligation to remit employer retirement contributions for employees funded by the General Fund while at the same time preserving diminished government resources.

It is the intent of the Legislature that this Act shall not be inconsistent with the Employee Retirement Income Security Act (ERISA, 29 U.S.C. § 1001 et seq.), particularly with regard to the CNMI Defined Contribution plan established by Public Law 15-13. Any conflict in law should be resolved in favor of the federal statute.

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

Public Law 16-2, enacted on May 3, 2008, contained numerous provisions amending various sections throughout the code. Section 7 of PL 16-2, entitled “Employer Retirement Contribution Rate,” provided:

Section 7. Employer Retirement Contribution Rate.

(a) Section 2(a) of Public Law 15-126 is hereby suspended for the entirety of Fiscal Year 2008, beginning October 1, 2007. Notwithstanding any other provision of law, all government departments, divisions, offices, municipalities, autonomous agencies, and public corporations shall remit employer contribution payments for employees in the Defined Benefit plan to the Northern Mariana Islands Retirement Fund based on a new rate of eleven percent (11%) of the employee's salary for Fiscal Year 2008. All expenditure authorities and the Department of Finance shall ensure that employer contribution amounts incurred after the effective date of this Act and amounts that have accrued but are unpaid since October 1, 2007, until the effective date of this Act shall be paid in equal installments to the Northern Mariana Islands Retirement Fund.

(b) Section 2(b) of P.L. 15-126 shall remain in effect. The government acknowledges its obligation to the Retirement Fund for deficient employer contributions and statutory penalties; provided further that the difference for the Northern Marianas College shall accrue as a liability for the central government.

(c) Section 2(c) of P.L. 15-126 is repealed and reenacted to read as follows: [as codified in 1 CMC § 8368(c)].

(d) Section 2(d) of P.L. 15-126 shall remain in effect, except that the Commissioner of Education shall be the expenditure authority for apportioned funds.

(e) Section 2(e) of P.L. 15-1 26 shall remain in effect. The Board of Trustees of the N.M.I. Retirement Fund shall be authorized to use sound fiscal management to prudently reallocate the Retirement Fund assets as needed in order to protect from diminishment and impairment of retirement benefits of its members.

(f) The difference between the 18% retirement employer contribution rate for general fund employers or actuarially calculated contribution rate for autonomous agencies and public corporations and the sum remitted by such general fund employers, autonomous agencies, and public corporations, except for the Commonwealth Utilities Corporation, and fifty percent (50%) of the difference of the employer contribution of the Public School System and the Northern Marianas College, shall be deposited into a special account within the General Fund and appropriated as follows:

(1) Fifty percent (50%) of the funds to Commonwealth Utilities Corporation to pay for its fuel expenses.

(2) \$80,000.00 to the Public Utilities Commission (PUC) for its start-up costs and operating expenses for fiscal year 2008; provided that the PUC shall reimburse the general fund the appropriated funds upon such time that it is duly organized and has access to funds under its expenditure authority.

(3) The remaining funds shall be expended pursuant to the reprogramming authority set forth in Section 4(b) of this Act.

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

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

*Public Law 16-32, the Appropriations and Budget Authority Act of 2009, was enacted by override on March 11, 2009 for appropriations for fiscal year 2009 (October 1, 2008- September 30, 2009). For that period, PL 16-32 set the employer contribution rate in subsection (a) at 11%.