

**THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**

**FOURTH REGULAR SESSION, 2003**

PUBLIC LAW NO. 13-60

**H. B. NO. 13-356**

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**AN ACT**

TO AMEND THE NORTHERN MARIANA ISLANDS RETIREMENT ACT OF 1988;  
AND FOR OTHER PURPOSE.

**BE IT ENACTED BY THE THIRTEENTH NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE:**

**Section 1. Short Title.** This act may be cited as the "Retirement Integrity Assurance Act" (or RIAA).

**Section 2. Findings and Purpose.** The Legislature finds that the government retirement system is saddled with an unfunded liability that threatens its financial soundness and ability to pay retirement and other benefits. The unfunded liability has increased in part because of the Commonwealth government's financial inability to remit employer contributions to the Fund, along with various amendments to the Retirement Fund Act that have enhanced and increased benefits to eligible members.

The Legislature finds that repealing the following unfunded mandates will maintain the financial integrity of the government retirement system, relieve the government from the burden of having to allocate a substantial portion of its revenues to the retirement fund, and permit the government to divert the necessary resources to pay for essential services for the benefit of the general public: (a) 3% bonus for certain elected officials, (b) benefits for boards and commissions members, (c) vesting credits for education service, military service, compensatory time, and unused sick leave and (d) prior service vesting credit.

Additional reform measures must be instituted to protect the financial viability of the fund including -- (a) disincentives to the withdrawal of employee contributions by imposing an early withdrawal penalty and by restricting reemployment for a period of six months unless the contributions are returned to the fund, and (b) redefining the term "salary" to mean base salary.

The Legislature further finds that the early retirement provision for class I members under 1 CMC § 8342(a) should be restructured to encourage class I members to retire before reaching 62 years of age. Doing so would likely reduce government payroll costs and thereby free up additional funds for remittance as employer contributions to the retirement fund.

Finally the authority of the Retirement Board must be expanded to include reviewing other retirement plans and determining whether such pension plans such as contribution- based benefit plans would be feasible alternatives or supplemental plans that would be in the best interest of the government. Under this Act, the board would have the authority to commission professional studies on such plans and to prescribe rules necessary to implement recommendations from those studies.

**Section 3. Repealer.** 1 CMC §§ 8313 (p)(2) through (6), 8323 through 8334, 8341 (d) and (f), 8342(b), 8344(0, are hereby repealed. The Law Revision Commission shall redesignate affected sections, subsections, paragraphs and subparagraphs accordingly.

**Section 4. Conforming Amendment.** The term "vesting service" referred to in 1 CMC §§ 8321, 8342, 8343(b), 8346, 8350, 8352(a) and (c), 8356(b)(1) and (2) is stricken out and replaced by the term "membership service." The term "credited service" is also stricken in 1 CMC §§ 8313(d), 8341, 8342, 8344, 8356(b), and replaced by the term "membership service."

**Section 5. Repealer and Reenactment.**

*(a) 1 CMC § 8313(o) is repealed and reenacted:*

“(o) “Salary” means base Salary paid to an employee for services including payment for annual leave, sick leave, administrative leave, holiday pay, but excluding lump sum payment for annual leave, or standby, hazardous, night time differential, typhoon pay differential or overtime pay, or any kind of bonus salary.”

***(b) 1 CMC § 8342(a) is repealed and reenacted as follows:***

“(a) Any class I member electing to take early retirement shall receive an amount equal to the amount the member would have been entitled to at normal retirement age. Provided that notwithstanding any law to the contrary, the member shall elect to take early retirement and pay a contribution to be set by the Fund based on an actuarial study but no more than the contribution required of class II members. The Fund shall prescribe by regulation procedures and other reasonably necessary regulations to implement this section.”

**Section 6. Amendments.**

***(a) Subsection (a) of 1 CMC § 8345 is amended as follows:***

“§ 8345. Occupational Disability Benefits.

(a) Any member who becomes totally and permanently disabled for service from an occupational cause shall receive an annuity equal to 50 percent of the salary such member was receiving at the time the disability was incurred. Such annuity shall continue until the member reaches 62 years of age.”

***(b) 1 CMC § 8346 is amended as follows:***

“§ 8346. Nonoccupational Disability Benefits.

Any member with at least five years of membership service who becomes totally and permanently disabled for service from nonoccupational causes shall receive the same benefits as those provided members with an occupationally-caused disability.”

***(c) Subsections (a), (b), and (d) of 1 CMC § 8347 are amended as follows:***

“§ 8347. Disability: Administrative Provisions.

(a) A member shall be considered totally and permanently disabled after the board receives written certification by at least two licensed and practicing physicians and a vocational rehabilitation

counselor preferably one with a master's degree selected by the board that the member is totally and permanently disabled for the further performance of the duties of any assigned position in the service of the government. If, upon consideration of the reports of the physicians and the vocational rehabilitation counselor and any other evidence presented to the board by the member or others interested therein, the board finds the member to be totally and permanently disabled, it shall grant the member a disability retirement annuity upon written certification that the member has been separated from the service of the employer because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the government.

(b) At least once each year during the first five years following the allowance of a disability annuity to any member, and at least once in every three-year period thereafter, the board shall require any disability annuitant to undergo a medical examination and vocational assessment to be made at the place of residence of the annuitant, or at any other place mutually agreed upon, by a physician: or physicians, and vocational rehabilitation counselor engaged by the board. If any examination indicates that the annuitant is no longer physically or mentally incapacitated for service, or that the annuitant is engaged or is able to engage in a gainful occupation, payments of the disability annuity by the fund shall be discontinued.

(d) If any disability annuitant refuses to submit to the examinations as herein provided, payments by the fund shall be discontinued until the member submits to such examinations. If the refusal continues for one year, all rights of the member in any disability annuity shall be permanently revoked by the board."

*(d) Subsection (a) of 1 CMC § 8348 is amended as follows:*

“§ 8348. Benefits: Death Prior to Retirement Without Survivor Benefits.

Upon death of a member occurring before his or her retirement on a retirement annuity, leaving no persons eligible for survivor annuities as provided herein, the following shall be payable:

(a) For class I members, a refund of one third of the total amount of contributions made by the member, including regular interest; for class 1/members, a refund of one-third of the total amount of contributions made by the member, including regular interest; and"

*(e) 1 CMC § 8356 is amended as follows:*

“(a) Upon complete separation from service before a class I member shall have completed 10 years of contributing member service, the class I member shall receive a refund of his or her total contributions, including regular interest, subject to an early withdrawal penalty of 10% of the total contributions, excluding interest earned. The penalty shall be withheld and retained upon issuance of the contributions by the Fund. Except as provided in other sections of this part, no refund of any contributions shall be permitted for class I members after completion of 10 years of contributing member service.

(b) Refund of contributions shall be permitted for class II members as follows:

(1) Upon complete separation from service before a member shall have completed at least three years vesting service, the member shall receive a refund of his or her total contributions, including regular interest, subject to an early withdrawal penalty of 10% of the total contributions, excluding

interest earned. The penalty shall be withheld and retained upon issuance of the contributions by the Fund. Total contributions shall include all contributions made by the member to obtain various types of credit authorized by this part.

(2) [no amendments]

(3) [no amendments]

(4) [no amendments]

(c) Regardless of class membership, a member shall be restricted from government reemployment for a period of six months after receiving a refund of his or her contributions, unless the member returns the full amount to the Fund within six months of receiving the refund."

***(f) ICMC § 8358 is amended as follows:***

“§ 8358. Annual Cost of Living Increase.

Class I and class II members in a receipt of a service retirement annuity shall be provided an annual cost of-living increase. The annuity amount will automatically increase on the first day of the quarter following approval by the board.

The cost of living increase will be the same as used by the United States of America Social Security System for its beneficiaries. The cost of living increase percentage will be applied to the previous year's annuity amount paid in equal semimonthly increments.”

***(g) 1 CMC § 8315 is amended by adding the following a new subsection (b) and by redesignating affected provisions accordingly:***

“(b) To submit annual recommendations to the Legislature on any proposed modification to the retirement system authorized under this Part to protect the financial integrity of the fund, and to commission professional

studies, if deemed necessary, to determine the feasibility of transforming the Retirement Fund program into a contribution-based benefits program or to assess the feasibility of administering other supplemental retirement programs."

*(h) I CMC § 8383(b) is amended as follows:*

“(b) Benefits specified in subsection (a) of this section, other than the right to refund, may be allotted for savings with the Commonwealth Government Employee's Credit Union, and may be assigned or transferred for the payment of, and may answer for, debts to the Commonwealth Government Employees' Credit Union or spousal and child support obligations arising out of judicial proceedings, and may be attached, garnished, or otherwise affected by judicial proceedings for the collection of such debts or obligations.”

*(i) I CMC § 8347(h) is amended as follows:*

“(h) Any annuity received by a class I or class II member as a result of any disability shall be reduced by an amount equal to any stun the member is entitled to from U.S. Social Security, any workers' compensation insurance or any other insurance covering such disability.”

**Section 7. Amendment. Title 1, Division 8, Part 2, Chapter 4 of the Commonwealth Code is amended by adding a new section 8253 as follows:**

“§ 8253. Filling Positions Vacated By a Retiring Employee.

Notwithstanding any law to the contrary, all department, agencies, and instrumentalities of the Commonwealth Government shall in good faith fill any vacant FTE position that occurs when an employee retires with an employee at a salary lower than the last salary paid to the retiring employee. Each department, agency and instrumentality of the Commonwealth Government shall advise in a timely manner and in writing the Office of Personnel Management and the Department of Finance of positions which become vacant as a result of employee retirement and shall advise the corresponding salaries at which such positions would

be filled. Both the Office of Personnel Management and the Department of Finance shall establish rules and regulations providing procedures to monitor the vacancy of such positions, the salaries to be paid, and any payroll savings to be realized from paying lower salaries. The Department of Finance shall remit such savings, if any, to the Northern Marianas Islands Retirement Fund, in addition to any amounts owed to the Fund.”

**Section 8. Actuarial Study Mandate.** Within 60 days after the effective date of this Act, the Board of Trustees of the Northern Mariana Islands Retirement Fund shall commission an actuarial study on the effect of the provisions of this Act and Shall lower, if warranted, the government contribution rate under 1 CMC § 8362. Such study shall also review the entire government retirement system and to recommend appropriate statutory changes that would significantly lower the government contribution rate over time.

**Section 9. Conformance with N.M.I. Const. Art. III § 20(a).** All of the provisions of this Act are subject to the mandate set forth by N.M.I. Const. art. 111, § 20(a) and no provision of this Act, including amendments and repealers, shall be construed to be in violation of the constitutional mandate.

**Section 10. Rulemaking Authority.** The Board 'of Trustees of the Northern Mariana Islands Retirement Fund shall implement this Act in accordance with section 20(a) of Article III of the Constitution of the Northern Mariana Islands and shall provide for the specific application of the provisions of this Act as to each group of fund members through regulation, except that the amendments to 1 CMC § 8342(a) under this Act shall apply to existing class I members in accordance with procedures to be established by the Fund pursuant to section 5(b) of this Act.

**Section 11. Suspension of Early Retirement Bonus.** Notwithstanding Section 3 of Public Law 11-114 or any contrary provision of law, no early retirement bonus shall be paid to a government employee electing to retire after December 31, 2005.

**Section 12. Severability.** If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent



jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

**Section 13. Savings Clause.** This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.

**Section 14. Effective Date.** This Act shall take effect upon its approval by the Governor or becoming law without such approval.

**CERTIFIED BY:**

**ATTESTED TO BY:**

/s/ \_\_\_\_\_  
**HEINZ S. HOFSCHEIDER**  
SPEAKER OF THE HOUSE

/s/ \_\_\_\_\_  
**EVELYN C. FLEMING**  
HOUSE CLERK

***Approved this 05<sup>th</sup> day of December, 2003***

/s/ \_\_\_\_\_  
**JUAN N. BABAUTA**  
**GOVERNOR**  
COMMONWEALTH OF THE NORTHERN MARIANAS ISLANDS