



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Eloy S. Inos
Governor

Jude U. Hofschneider
Lieutenant Governor

11 APR 2014

Honorable Joseph P. Deleon Guerrero
Speaker, House of Representatives
Eighteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

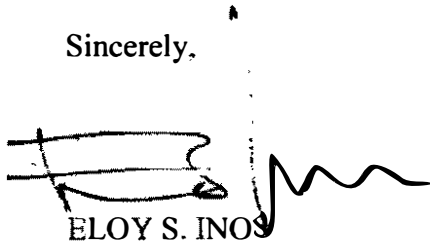
Honorable Ralph DLG. Torres
Senate President, The Senate
Eighteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. Speaker and Mr. President:

This is to inform you that I have signed into law House Bill No. 18-171, SD1, entitled, "To amend Public Law 18-12 to provide for the issuance of bonds other than general obligation bonds and acknowledge the existence of an actuarial determination of the unfunded liability of the Commonwealth Government to the Retirement Fund," which was passed by the House of Representatives and the Senate of the Eighteenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 18-45**. Copies bearing my signature are forwarded for your reference.

Sincerely,



ELOY S. INOS

cc: Lt. Governor; Lt. Governor's Legal Counsel; Attorney General's Office; Press Secretary; Commonwealth Development Authority; Secretary of Finance; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



House of Representatives

18th NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500586
SAIPAN, MP 96950

April 3, 2014

The Honorable Eloy S. Inos
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Inos:

I have the honor of transmitting herewith for your action **H. B. No. 18-171, SD1**, entitled: "To amend Public Law 18-12 to provide for the issuance of bonds other than general obligation bonds and acknowledge the existence of an actuarial determination of the unfunded liability of the Commonwealth Government to the Retirement Fund.", which was passed by the Eighteenth Northern Marianas Commonwealth Legislature with an affirmative two-thirds vote of the members in each house.

Sincerely yours,



Linda B. Muña
House Clerk

Attachment



*Eighteenth Legislature
of the
Commonwealth of the Northern Mariana Islands*
IN THE HOUSE OF REPRESENTATIVES

Third Regular Session

January 31, 2014

Representative Mariano Taitano, of Saipan, Precinct 1 (*for himself*, Representatives Lorenzo I. Deleon Guerrero, and Antonio P. Sablan) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

H. B. No. 18-171, SD1

AN ACT

**TO AMEND PUBLIC LAW 18-12 TO PROVIDE FOR THE
ISSUANCE OF BONDS OTHER THAN GENERAL OBLIGATION
BONDS AND ACKNOWLEDGE THE EXISTENCE OF AN
ACTUARIAL DETERMINATION OF THE UNFUNDED LIABILITY
OF THE COMMONWEALTH GOVERNMENT TO THE
RETIREMENT FUND.**

The Bill was not referred to a House Committee.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON
FIRST AND FINAL READING, FEBRUARY 19, 2014;
without amendments and transmitted to the
THE SENATE.**

The Bill was not referred to a Senate Committee.
**THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, MARCH 4, 2014;
with amendments in the form of H. B. 18-171, SD1.**

H. B. 18-171, SD1 WAS RETURNED TO THE HOUSE OF REPRESENTATIVES ON MARCH 5, 2014.

The House of Representatives accepted the Senate amendments and passed H. B. 18-171, SD1 during its 8th Day, Third Regular Session by the affirmative vote of two-thirds of the members on March 26, 2014.

THE BILL WAS FINALLY PASSED ON MARCH 26, 2014.

A handwritten signature in black ink, appearing to be "Linda B. Muña", written over a horizontal line.

Linda B. Muña, House Clerk



Eighteenth Legislature
of the
Commonwealth of the Northern Mariana Islands
IN THE HOUSE OF REPRESENTATIVES

Eighth Day, Third Regular Session

March 26, 2014

H. B. 18-171, SD1

AN ACT

TO AMEND PUBLIC LAW 18-12 TO PROVIDE FOR THE ISSUANCE OF BONDS OTHER THAN GENERAL OBLIGATION BONDS AND ACKNOWLEDGE THE EXISTENCE OF AN ACTUARIAL DETERMINATION OF THE UNFUNDED LIABILITY OF THE COMMONWEALTH GOVERNMENT TO THE RETIREMENT FUND.

Be it enacted by the Eighteenth Northern Marianas Commonwealth Legislature:

1 **Section 1. Findings and Purpose.** The Legislature finds that Public Law 18-12 needs
2 to be amended to provide for the issuance of bonds other than general obligation bonds.

3 **Section 2. Repeal and Reenactment.** Section 2 of Public Law 18-12 is repealed and
4 reenacted as follows:

5 “Section 20 of Article III of the N. M. I. Constitution guarantees certain rights
6 for members in a retirement system of the Commonwealth. The Northern Mariana
7 Islands Retirement Fund has historically been the retirement system of the
8 Commonwealth to which employer contributions were made and through which
9 retirement benefits were paid. In the November 2012 election, the voters approved

HOUSE BILL 18-171, SD1

1 House Legislative Initiative No. 17-5 adding a new Section 10 to Article X of the
2 N. M. I. Constitution: (i) to allow for the issuance of pension obligation bonds in an
3 amount not exceeding the Commonwealth's actuarially determined unfunded accrued
4 liability to the Retirement Fund; and (ii) and to direct that the net proceeds of such
5 bonds be deposited and invested along with other monies in a defined benefit plan
6 trust fund administered by the Retirement Fund.

7 Beginning in 2009, a class action was filed in the Federal District Court for
8 the Northern Mariana Islands, Case No. 09-00023, asserting claims arising from the
9 Commonwealth's failure to pay required annual contributions to the Retirement Fund.
10 In 2013, the parties to this litigation entered into a Stipulation and Agreement of
11 Settlement, and the United States District Court issued a Final Approval Order
12 approving the Settlement Agreement and certifying the Settlement Class and further
13 issued a Consent Judgment.

14 The Settlement Agreement together with Consent Judgment provided that: (1)
15 the Commonwealth is liable for money damages in the amount of \$779 million or the
16 equivalent of the actuarial present value of benefits related to the Settlement Class
17 Members, (2) a Settlement Fund be established for the benefit of the Settlement Class
18 Members, (3) the Settlement Class Members were defined as "All persons who on
19 August 6, 2013 are members of the Defined Benefit Plan of the Northern Mariana
20 Islands Retirement Fund or persons who are entitled to survivor's benefits of such
21 members; provided the person did not execute and deliver to the CNMI Fund a timely
22 Election to Terminate", (4) the Retirement Fund was required to transfer to the

HOUSE BILL 18-171, SD1

1 Settlement Fund all assets of the Retirement Fund (except certain assets for the
2 benefit of Non-Settlement Class Members who are members of the Defined
3 Contribution Plan and certain other specified assets), (5) all liabilities of the
4 Retirement Fund (with certain exceptions) were required to be transferred to the
5 Commonwealth, and (6) the Commonwealth was required to make payments to the
6 Settlement Fund in accordance with the Settlement Agreement.

7 The Legislature acknowledges that Article X, section 10, provides that the net
8 proceeds of bonds shall be deposited and invested with other funds in a defined
9 benefit plan trust fund administered by the Northern Mariana Islands Retirement
10 Fund. The Legislature also acknowledges that CNMI Retirement Fund shall give
11 priority to paying any money received for pension benefits from Pension Obligation
12 Bonds to the Settlement Fund to insure that the payment of the Settlement Class
13 Members is not lower than the amount paid to those who opted out of the Settlement
14 Agreement.

15 The legislature finds and determines that issuance of the bonds proposed in
16 this act and use of the proceeds of those bonds to satisfy the liabilities of the
17 Retirement Fund to its remaining non Settlement Class Members and the liabilities of
18 the Commonwealth to the Settlement Class Members, with respect to the actuarially
19 determined unfunded accrued liability to those persons, is consistent with the meaning
20 and intent of Section 20 of Article III and Section 10 of Article X of the N.M.I.
21 Constitution. Based on the GASB 67/68 Preview Valuation as of October 1, 2010,
22 prepared by Buck Consultants LLC, January 2013, and on the Settlement Agreement,

HOUSE BILL 18-171, SD1

1 the amount of the Commonwealth's actuarially determined unfunded accrued liability
2 for purposes of Section 10 of Article X of the N.M.I. Constitution is not less than
3 three hundred million dollars (\$300,000,000).

4 The bond authorization proposed in this act serves a public purpose and does
5 not create an additional liability on the part of the Commonwealth. The proposed
6 authorization would only substitute a bond obligation for a judgment obligation."

7 **Section 3. Repeal and Reenactment.** Section 3(b) of Public Law 18-12 is repealed
8 and reenacted as follows:

9 "(b) The Commonwealth Development Authority (CDA), on behalf of the
10 Commonwealth of the Northern Mariana Islands, is hereby authorized to issue, in one
11 or more series, at one time or from time to time, bonds in an aggregate principal
12 amount up to three hundred million dollars (\$300,000,000) to fund the pension
13 obligation of the Commonwealth referred to in Section 2."

14 **Section 4. Repeal and Reenactment.** Section 3(d) of Public Law No. 18-12 is
15 repealed and reenacted as follows:

16 "(d) The CDA is further authorized to pledge as security for the bonds as
17 provided for in Title 4, Division 10, Chapter 4, Article 2, the taxes on gross revenues
18 of the Commonwealth collected pursuant to Title 4, Division 1, Chapter 3 of the
19 Commonwealth Code, and on such priority and terms as the CDA shall determine to
20 be in the best interest of the Commonwealth. The Authority may elect in its
21 resolution authorizing issuance of a series of bonds that the pledged taxes on gross
22 revenues shall be the sole security for the bonds, which in that case shall not be

HOUSE BILL 18-171, SD1

1 considered general obligation bonds or otherwise entitled to the full faith and credit
2 pledge of the Commonwealth or any lien on the General Fund of the Commonwealth.
3 All pledged taxes on gross revenues shall be deposited, and the Secretary of Finance
4 shall make any transfers necessary to effect deposit of such taxes, promptly upon
5 receipt, in a special trust account established pursuant to Section 10460, without prior
6 deposit in the General Fund or any other Fund of the Commonwealth, until the
7 balance in said special trust account is at least equal to debt service due or to become
8 due on the bonds during the next succeeding twelve months. Any taxes on gross
9 revenues deposited upon receipt in any other fund shall be deemed held in trust for,
10 and the Secretary of Finance shall immediately transfer any such taxes for, deposit in
11 the special trust account."

12 **Section 5. Amendments.** Section 3 of Public Law 18-12 is amended by adding a new
13 subsection (e) as follows:

14 "(e) The Commonwealth hereby covenants with the holders of the bonds,
15 including any refunding bonds, that so long as any of the bonds or refunding bonds
16 remain outstanding, the Commonwealth shall not alter or amend the tax on gross
17 revenues or its deposit into the special trust account in any manner that would
18 adversely affect the security of, or the ability to pay the principal of or interest on, the
19 bonds. The CDA may include this covenant of the Commonwealth in the bond
20 indenture or other document or agreement providing for issuance, security and
21 payment of the bonds."

HOUSE BILL 18-171, SD1

1 **Section 6. Severability.** If any provisions of this Act or the application of any such
2 provision to any person or circumstance should be held invalid by a court of competent
3 jurisdiction, the remainder of this Act or the application of its provisions to persons or
4 circumstances other than those to which it is held invalid shall not be affected thereby.

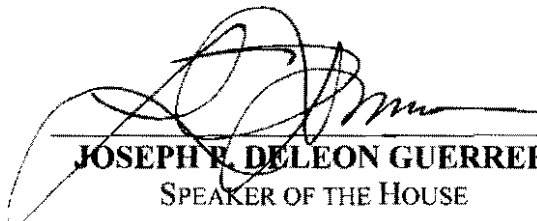
5 **Section 7. Savings Clause.** This Act and any repealer contained herein shall not be
6 construed as affecting any existing right acquired under contract or acquired under statutes
7 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
8 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
9 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
10 any liability, civil or criminal, which shall already be in existence on the date this Act
11 becomes effective.

HOUSE BILL 18-171, SD1

1 **Section 8. Effective Date.** This Act shall take effect upon its approval by the
2 Governor, or its becoming law without such approval.

**Passed by the House of Representatives on March 26, 2014 and by the Senate on
March 4, 2014, by the affirmative vote of two-thirds of the members in each
house.**

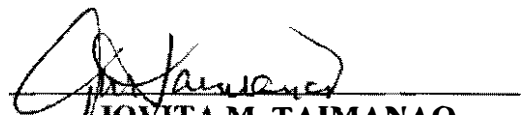
CERTIFIED BY:


JOSEPH E. DELEON GUERRERO
SPEAKER OF THE HOUSE

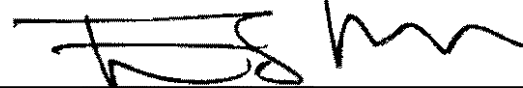

RALPH DLG. TORRES
PRESIDENT OF THE SENATE

ATTESTED TO BY:


LINDA B. MUÑA
HOUSE CLERK


JOVITA M. TAIMANAO
SENATE LEGISLATIVE SECRETARY

APPROVED this **11TH** day of **APRIL**, 2014


ELOY S. INOS
Governor
Commonwealth of the Northern Mariana Islands