

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 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.

Source: PL 13-60, § 7.

Commission Comment: PL 13-60 was enacted on December 5, 2003 and contained the following provisions, among various other enactments, in addition to severability and savings clause provisions:

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.

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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.

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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. Rule-making 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.