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§ 8313. Definitions.

In this part, unless the context otherwise requires, words and phrases shall have the following meanings:

(a) “Accumulated contributions” means the sum of all the amounts paid by, or deducted from the compensation of, a member and credited to their individual account together with regular interest thereon.

(b) “Agent” means a person, firm or organization, other than an employee or board member, who is engaged by the board to render service.

(c) “Annuitant” means any person in receipt of a benefit payable from the Northern Mariana Islands Retirement Fund.

(d) “Average annual salary” means the average of the three highest annual salaries received by a member during the member’s years of membership service or \$6,000, whichever is greater.

(e) “Beneficiary” means the recipient of any benefit from the system or, as the context may indicate, the natural person or persons designated by a member to receive the benefits payable in the event of his or her death.

(f) “Board” means the Board of Trustees provided for as the governing body responsible for the direction and operation of the affairs and business of the fund. Title to all assets of the fund shall be held for the fund by the board or its qualified agents or custodians.

(g) “Child” means unmarried child, including an adopted child or recognized natural child, who receives more than one-half of his support from the member and who is under the age of 18 years, or such unmarried child regardless of age who has been examined prior to age 18 and pronounced by two licensed physicians to be permanently physically or mentally disabled and incapable of self-support.

(h) “Custodian” means any agent who is qualified and has assumed the responsibility for the physical possession of fund assets.

(i) “Fund” means the Northern Mariana Islands Retirement Fund.

(j) “Investment agent” means any agent who is qualified and has been engaged by the board to provide investment advice.

(k) “Member” means a class I member and a class II member. A member who retires or otherwise terminates employment shall remain a member so long as he or she retains a right to any benefits from the fund. Such member will retain the same class of membership held at the time of retirement or separation. Upon subsequent reemployment in a position eligible for membership, such member shall, except as provided in 1 CMC § 8356, also retain the same class of membership held at the time of retirement or separation.

(l) “Class I member” means:

(1) All employees of the government including employees of all public corporations, agencies and instrumentalities of the government, hired on or after May 7, 1989.

(2) All employees of the government, including employees of all government agencies, government instrumentalities and public corporations, who had an option to become members of the Commonwealth Retirement Fund prior to May 7, 1989, but did not elect to become fund members.

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(3) All government employees, including employees of all government agencies, instrumentalities and public corporations who had, prior to May 7, 1989, terminated government service and received a refund of contributions previously paid to the Commonwealth Retirement Fund, and who reentered employment after May 7, 1989.

(4) All government employees who were members of the fund prior to May 7, 1989, and who elect to transfer their membership to class I membership under the provisions of this part.

(m) "Class II member" means all persons who were fund members prior to May 7, 1989, and who do not elect to become class I members under the terms of this part.

(n) "Regular interest" means the interest rate as fixed by the board.

(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.

(p) "Service" means actual employment by the government as an employee for salary or compensation, or service otherwise creditable as herein provided.

(1) "Membership service" means service rendered on or after becoming a member of the fund.

(q) "Spouse" means the person to whom an individual is legally married.

(r) "Accrued benefits" means financial benefits earned by a member that are attributable to past services. It does not include benefits projected to arise on account of future services.

(s) "Vested accrued benefits" means accrued benefits to which a non-forfeitable interest of a retirement plan member has attached, as provided by law.

Source: PL 6-17, ch. 1, § 8314; amended by PL 6-41, § 1; (d), (o), and (p) amended by PL 13-60, § 4, 5(a), 3, respectively; (r) and (s) added by PL 15-70, § 4(k).

Commission Comment: PL 13-60 was enacted on December 5, 2003 and contained, in addition to other enactments, a short title, findings and purpose, severability, and savings clause provisions. See the comment to 1 CMC § 8253 regarding PL 13-60.

Public Law 15-70, which was entitled "The Defined Benefit Plan Reform Act [DBPRA] of 2007," was enacted on June 14, 2007, and contained the following findings and purpose in addition to other enactments and severability and savings provisions:

Section 2. Findings and Purpose. The Legislature finds that the actuary of the Northern Mariana Islands Retirement Fund most recently has reported that the Fund's defined benefit plan is only 46% funded and that the Commonwealth Government has not fully funded the plan for more than ten years, if ever. Although the Fund counts assets of approximately \$450 million, the actuary reports that it is saddled with an unfunded liability that is approaching one-half billion dollars (approximately \$470 million as of October 1, 2004). Stated another way, the Commonwealth Government faces an unfunded obligation whose present value is, on

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average, \$58,537.80 for each of the 8,029 participants in the Commonwealth's defined benefit plan.

This unfunded obligation was created principally because of (1) prior service credits granted to fund participants, (2) amendments to the Retirement Fund Act that have granted early retirement concessions and new and increased benefits to participants, and (3) the government's financial inability to remit the actuarially required employer contributions to the Fund because of the size of the obligation that has been incurred. Additionally, the ratio of active participants who are funding the plan has reached an all time low relative to retirees and other participants who are drawing benefits.

This current fiscal situation has created an unsustainable economic emergency. The Commonwealth Government faces an unfunded governmental obligation to Fund participants of more than one-half billion dollars, although Article X, Section 4 of the Commonwealth Constitution limits bonds and other obligations of the government that constitute public indebtedness to 10% or less of the aggregate assessed valuation of the real property within the Commonwealth. Moreover, for several years now the Commonwealth Government has been unable to constitutionally balance its budget and follow a fiscally sound deficit reduction program, as mandated in Article X, Section 6 of the Commonwealth Constitution. The Legislature recognizes that the Commonwealth lacks the financial resources to pay off a \$500,000,000 unfunded government liability to the Retirement Fund, and that a rescue and reform plan is necessary to restore the Fund to a more sound financial footing.

The adversity created by a nearly \$500,000,000 unfunded liability precludes the Commonwealth from entering the bond market at other than an exorbitant rate of interest. The bond rating agencies may treat the government's unfunded liability as public indebtedness. Until this issue is addressed, the Commonwealth may be unable to secure additional credit at reasonable rates from private sources.

This Act makes economically required prospective changes to the structure of the Commonwealth's defined benefit plan to rescue it from an inevitable fiscal meltdown and move it closer to a more fully funded and less publicly indebted, state. It also moves the Commonwealth closer to the possibility of enacting a constitutionally mandated balanced budget and a realistic deficit reduction program. It will assist the Commonwealth in the restoration of healthy public finances and a future date when the Commonwealth can enter the bond market to obtain financing for public improvements at reasonable rates of interest. Through these fiscal reforms, this legislation provides the citizens, public employees, and retirees of the Commonwealth with a greater assurance that the Government will be able to meet its future financial obligations to the Fund and other creditors.

Enactment of these fiscal reforms is necessary at the earliest possible date. These reforms are consistent with the legislature's consideration of a defined contribution plan for new public employees and for those current public employees made eligible to participate in the plan.

The principal purposes of this Act are:

(a) To enhance the retirement security of public employees and the continued payment of benefits to retirees of the defined benefit plan of

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the Northern Mariana Islands Retirement Fund by amending the plan to improve its fiscal solvency and to improve the fiscal solvency of the Commonwealth Government, thereby assuring the future payment of timely employer contributions to the Fund; and

(b) To subject to referendum any changes that by law increase benefits offered under the defined benefit plan of the Northern Mariana Islands Retirement Fund.

...

Section 4. Amendments to Improve the Fiscal Solvency of the Commonwealth Government and the Northern Mariana Islands Retirement Fund.

...

(c)(2) Transition Provision. Class I members who have elected early retirement prior to the effective date of this act shall not be affected by this change in law and shall maintain the same rights and obligations as was provided under § 8342(a) prior to this amendment. Class I members who were eligible to elect early retirement prior to the effective date of this act shall have five years from the effective date of this act to elect early retirement under § 8342(a) as it was enacted under Public Law 13-60; provided that any such electing members shall pay a lump sum contribution to be set by the Fund based on an actuarial study but no more than the contribution required of Class II members under § 8361(b) of this act.

Section 5. Conformance with N.M.I. Const. Art. III, § 20(a). The provisions of this Act are the result of an economic emergency arising from a \$470 million unfunded liability, as actuarially determined as of October 1, 2004. The legislature finds that each provision of this act is necessary to improve the depleted public finances of the Commonwealth and allow it to move closer to a constitutionally mandated balanced budget, deficit reduction plan, and limited public indebtedness. This act is subject to N.M.I. Const. Art. III, § 20(a). No provision of this Act, including amendments and repealers, shall be construed to diminish or impair financial benefits accrued as of the date of this act or otherwise be in violation of this constitutional mandate.