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DIVISION 8: PUBLIC EMPLOYMENT

§ 8360. Future Benefit Increases Required to be Ratified by Referendum.

If there is enacted hereafter any changes that increase directly or indirectly the benefits to participants in the defined benefit plan of the Northern Mariana Islands Retirement Fund (1 CMC § 8301 et seq.) such changes shall not take effect until they are:

(a) Funded, in a manner that in the opinion of the Fund's actuary is a fiscally sound, dedicated source of new funding and not a redirected source of existing funding,

(b) Ratified by referendum at the next succeeding election following the increase in benefits, and

(c) Approved by a majority of the votes cast in a referendum to approve or disapprove the increase in benefits.

The Commonwealth Election Commission shall publish information relating to the referendum that discloses to the voters a summary of a full actuarial valuation of the cost to the taxpayers of the Commonwealth of the proposed increase in benefits and the actuary's opinion of the dedicated funding source.

Source: PL 15-70, § 3, modified.

Commission Comment: The Commission utilized a different designation scheme from that specified in the original text of PL 15-70, § 3, pursuant to its authority granted by 1 CMC § 3806. 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 pertinent sections, in addition to other enactments, transition, 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 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

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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 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.

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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

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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.