



Representative Ray Naraja Yumul

FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

"Public Service through a Business Approach"

Representing Election Precinct #3

Vice Chairman,
Commerce & Tourism

MEMBER, House Standing
Committee on:
• Ways and Means
• Public Utilities, Transportation
& Communications
• Judiciary & Governmental
Operations

SAIPAN & NORTHERN ISLANDS
LEGISLATIVE DELEGATION (SNILD)

CHAIRMAN, Judiciary and
Governmental Operations

Member, SNILD Standing
Committee on:
• Commerce & Tourism
• Public Utilities, Transportation
& Communication
• Rules and Procedures

STANDING COMMITTEE REPORT NO. 16-69
December 16, 2008
RE: S.L.I. NO. 16-10

The Honorable Speaker Arnold I. Palacios
Speaker of the House of Representatives
Sixteenth Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Ways and Means to which Senate Legislative Initiative No. 16-10 entitled:

"To amend Article X of the Constitution of the Commonwealth of the Northern Mariana Islands by amending Section 7 to require the reduction of government employment and to add a new section 10 to authorize the commonwealth to issue pension obligation bonds; and for other purposes."

was referred, begs leave to report as follows:

I. RECOMMENDATION:

Pursuant to considerable discussion, your Committee recommends that Senate Legislative Initiative No. 16-10 be passed by the House as Senate Legislative Initiative 16-10, HS1.

II. ANALYSIS:

A. Purpose:

The purpose of this initiative is to authorize the Government of the Commonwealth of the Northern Mariana Islands to incur a public debt through a

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Pension Obligation Bond that would be used to pay all government obligations owed to the Commonwealth of the Northern Mariana Islands Retirement Fund.

B. Committee Findings:

Your Committee finds that the Government of the Commonwealth of the Northern Mariana Islands has failed to remit its required payments in employer contributions to the Northern Mariana Islands Retirement Fund. The Committee further finds that the CNMI government has provided very generous and expensive retirement benefits to its members. Member benefits have expanded over the years as a result of numerous statutes enacted for that purpose. The following are examples of the additional benefits given to government employees and members of the Fund.

1. Public Law 3-99 increased the benefit paid to members of the Retirement Fund.
2. Public Law 5-48 gave additional service credit to certain members.
3. Public Law 7-39 offered a generous Cost of Living Allowance (COLA) to annuitants.
4. Public Law 7-40 allowed for at least limited "double dipping" by government employees.
5. Public Law 8-24 added an overtime work service credit.
6. Public Law 8-30 established an early retirement incentive.
7. Public Law 8-31 provided for an additional COLA increase.
8. Public Law 8-39 granted additional prior service credit for certain members.
9. Public Law 9-25 refunded member-paid employer contributions.
10. Public Law 11-95 permitted retirees to receive survivor benefits in addition to other benefits.
11. Public Law 15-31 allowed a government employee to waive salary and continue receiving retirement benefits.
12. Public Law 15-61 prohibited the Fund from paying less than the full pension to retirees.
13. Public Law 15-98 authorized members with 15 years of service to withdraw their contributions.

Furthermore in providing great benefits to government employees, the government added to the burden of the retirement system by diverting revenues from and transferring costs to the Fund. The following are samples of the additive burden the government has placed on the Funds financial strains:

1. Public Law 9-28 diverted amusement revenues from the Fund to a Man'amko center.
2. Public Law 10-19 transferred the Group Health and Life Insurance to the Retirement Fund.
3. Public Law 10-88 gave elected officials the right to waive their salary and

- continue receiving retirement benefits.
4. Public Law 11-2 allowed retirees in certain occupations to return to work for up to two years without losing benefits.
 5. Public Law 14-98 exempted the Public School System (PSS) from the increase in contribution rate.
 6. Public Law 15-15 suspended the employer contribution to the Fund for part of Fiscal Year 2006 and all of Fiscal Year 2007.
 7. Public Law 15-24 established "Austerity Fridays," reducing the employee contribution but maintaining full benefits for those employees.

The Committee finds that the practice of adding to member benefits while siphoning off dedicated retirement revenues has exacerbated the government's liability to the Fund, and has contributed to the explosion in the overall unfunded liability of the Fund.

The government owes the Retirement Fund an estimated cost of approximately \$193 Million, which now has an unfunded liability at roughly one half billion dollars. Roughly 2,800 retirees and 4,595 active members do or will rely on the Fund for financial security. The Committee finds that an increase in benefits and reduction in revenues led the Board of Trustees of the Fund to take the drastic and unprecedented action of refusing to process retirement applications in November of 2007. (See Board Resolution 08-001.) Furthermore, the Fund filed a lawsuit against the government, Governor Fitial, Department of Finance, and Finance Secretary Eloy Inos in 2006 over the government's failure to remit required payments.

Additionally your Committee finds that House Legislative Initiative 16-12, similar initiative, also recommends the amendment of section 7 of Article X of the Commonwealth Constitution. Therefore, your Committee merged House Legislative Initiative 16-12 and Senate Legislative Initiative 16-10 to create a more effective and reasonable legislation in the form of Senate Legislative Initiative 16-10, HS1.

Your Committee further finds that a subsection (j) should be added under Section 1, which shall read as follows:

(j) The Sixteenth Northern Marianas Legislature further finds that part of the reason for the lack of contributions to the Retirement Fund is an excessive government payroll. Requiring an annual reduction in the number of employees as pressed in terms of overall expenditures will reduce the financial pressure of making timely employer contributions to the Retirement Fund. Simply put, the fewer government employees, the lower the overall employer contribution. Therefore, it is necessary to amend Section 7 of Article X to require a reduction in government employment each fiscal year until the total government budget allocation for personnel is sixty percent or less of the general revenues of the Commonwealth.

The Legislature further finds that part of the reason for the lack of contributions to

the Fund is an excessive government payroll. Requiring an annual reduction in the number of employees as expressed in terms of overall expenditures will reduce the financial pressure of making timely employer contributions to the Fund. Simply put, the fewer government employees, the lower the overall employer contribution.

C. Legislative History:

Senate Legislative Initiative 16-10 was introduced in session on October 2, 2008, and was passed by the Senate on October 2, 2008. Senate Legislative Initiative 16-10 was referred to the House Ways and Means Committee for action.

D. Public Hearing:

None.

E. Cost Benefit:

Senate Legislative Initiative 16-10, HS1 will allow the Retirement Fund to concentrate on its obligations to its members in investing the revenues owed to them by our central government and not continue to fend off would be legislations that will only continue to burden the Fund. The Committee believes that the long term survival of the Northern Mariana Islands Retirement Fund far out weighs the cost of a public debt through a pension obligation bond.

F. Amendments:

“A PROPOSED CONSTITUTIONAL AMENDMENT”

To amend Article X (Taxation and Public Finance) of the Constitution of the Commonwealth of the Northern Mariana Islands by amending Section 7 to require the reduction of government employment and adding a new Section 10 to authorize the Commonwealth to issue pension obligation bonds and for other purposes.

“Section 7: Government Employment.

In the annual appropriations acts, the legislature shall establish ceilings on the number of persons that may be employed by each branch, department, agency, authority and public corporation of the Commonwealth to which public funds are appropriated. Except upon specific approval by joint resolution of the legislature, no public funds may be expended for personnel in excess of the ceilings so established. Upon the enactment of this provision, the legislature shall reduce the number of government employees by two and one half percent each fiscal year until the total government budget allocation for personnel is sixty percent or less of the general revenues of the Commonwealth.”

The new section 10 of Article X shall read as follow:

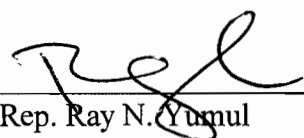
“Section 10: Pension Obligation Bonds.

Following the affirmative vote of two-thirds of the members in each house of the Legislature, the Commonwealth may issue pension obligation bonds in a cumulative amount (excluding refunding bonds) not to exceed its actuarially determined unfunded accrued liability. The net proceeds of each such bond issuance shall be deposited and invested along with other monies in the defined benefit plan trust fund administered by the Northern Mariana Islands Retirement Fund. The bonds issued under this section shall comply with Section 3 of this Article and shall be exempt from Section 4 of this Article.”

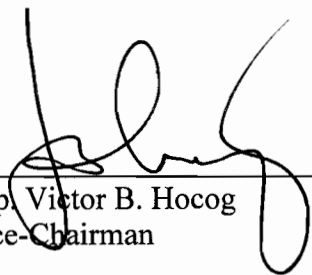
III. CONCLUSION:

The Committee is in accord with the intent and purpose of S.L.I 16-10, and recommends passage of Senate Legislative Initiative 16-10 in the form of House Substitute 1.

Respectfully submitted,

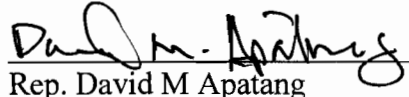


Rep. Ray N. Yumul
Chairman



Rep. Victor B. Hocog
Vice-Chairman

Rep. Edwin P. Aldan
Member

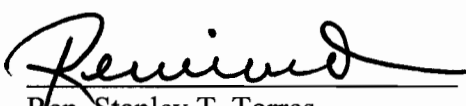


Rep. David M Apatang
Member

Rep. Diego T. Benavente
Member

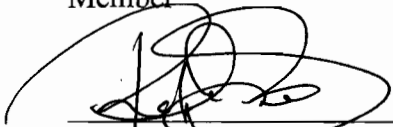
Rep. Justo S. Quitugua
Member

Rep. Joseph C. Reyes
Member




Rep. Stanley T. Torres
Member

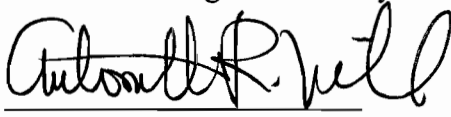
Rep. Rosemond B. Santos
Member



Rep. Ralph DLG. Torres
Member



Rep. Ramon A. Tebuteb
Member

Reviewed for legal sufficiency:


House Legal Counsel

SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SECOND REGULAR SESSION, 2008

S. L. I. NO. 16-10, HS1

A SENATE LEGISLATIVE INITIATIVE

To amend Article X of the Constitution of the Commonwealth of the Northern Mariana Islands by amending Section 7 to require the reduction of government employment and to add a new Section 10 to authorize the Commonwealth to issue pension obligation bonds and for other purposes.

BE IT ENACTED BY THE SIXTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

- 1 **Section 1. Findings.** The Legislature finds:
- 2 (a) The Commonwealth has failed for several years to contribute its actuarially
- 3 required employer contributions to the Northern Mariana Islands Retirement
- 4 Fund.
- 5 (b) According to the Fund, as of September 30, 2007, employer contributions
- 6 receivable from the CNMI Government exceed \$132,000,000, excluding penalties
- 7 and interest.
- 8 (c) The Fund has sued the Commonwealth to recover the contribution deficit, and it is
- 9 necessary and proper to help resolve that litigation by authorizing a new source of
- 10 funding to be tapped to pay off the deficit.
- 11 (d) The issuance of pension obligation bonds could eliminate the deficit and grant the
- 12 Retirement Fund a substantial sum of money to invest and compound returns over
- 13 time.
- 14 (e) The constitutional amendment proposed by this initiative authorizes issuance of
- 15 pension obligation bonds. Before any such bonds are actually issued, the
- 16 Commonwealth additionally must assess their feasibility. The feasibility of the
- 17 bonds depends upon bond market conditions, prevailing interest rates, and other
- 18 factors that may change over time.

1 (f) Under current law the issuance of pension obligation bonds may be precluded by
2 Article X, Section 4, of the Constitution, because the amounts due relate to the
3 operating deficit. Article X, Section 4 limits the issuance of public debt in two
4 ways: (1) by prohibiting its use for operating expenses and (2) by limiting its total
5 to no more than ten percent (10%) of the aggregate assessed valuation of the real
6 property within the Commonwealth. Article X, Section 4 reads as follows:

7 **Article X, Section 4: Public Debt Limitation. Public**
8 **indebtedness other than bonds or other obligations of the**
9 **government payable solely from the revenues derived from a**
10 **public improvement or undertaking may not be authorized in**
11 **excess of ten percent of the aggregate assessed valuation of the**
12 **real property within the Commonwealth. Public indebtedness**
13 **may not be authorized for operating expenses of the**
14 **Commonwealth government or its political subdivisions.**

15 (g) The limitations in Article X, Section 4 should not preclude the Commonwealth
16 from addressing its obligations to the Retirement Fund. The proposed initiative
17 waives those limitations and substitutes other limitations, including the
18 requirement that the cumulative amount of the bonds not exceed the
19 Commonwealth's actuarially determined unfunded accrued liability to the
20 Retirement Fund.

21 (h) The limitations in Article X, Section 3 will continue to apply to the bonds. Those
22 limitations serve as an additional protection for the public interest. Under Article
23 X, Section 3, the Commonwealth may not issue pension obligation bonds without
24 the affirmative vote of two-thirds of the members in each house of the legislature.
25 Article X, Section 3 reads as follows:

26 **Article X, Section 3: Public Debt Authorization. Public debt**
27 **may not be authorized or incurred without the affirmative vote**
28 **of two-thirds of the members in each house of the legislature.**

1 (i) Accordingly, the Sixteenth Northern Marianas Legislature finds it is necessary
2 and proper to amend the Constitution of the Commonwealth of the Northern
3 Mariana Islands to add a new Section 10 to Article X (Taxation and Public
4 Finance) to authorize the Commonwealth to issue pension obligation bonds.

5 (j) The Sixteenth Northern Marianas Legislature further finds that part of the reason
6 for the lack of contributions to the Retirement Fund is an excessive government
7 payroll. Requiring an annual reduction in the number of employees as pressed in
8 terms of overall expenditures will reduce the financial pressure of making timely
9 employer contributions to the Retirement Fund. Simply put, the fewer
10 government employees, the lower the overall employer contribution. Therefore, it
11 is necessary to amend Section 7 of Article X to require a reduction in government
12 employment each fiscal year until the total government budget allocation for
13 personnel is sixty percent or less of the general revenues of the Commonwealth.

14 **Section 2. Legislative Initiative.** The Sixteenth Northern Marianas
15 Commonwealth Legislature, by the affirmative vote of three-fourths of the members of
16 each house present and voting, hereby proposes to amend Article X of the Constitution of
17 the Commonwealth of the Northern Mariana Islands by amending Section 7 and adding a
18 new Section 10 to be placed before the people for ratification at the next general election:

19 **“A PROPOSED CONSTITUTIONAL AMENDMENT**

20
21 To amend Article X (Taxation and Public Finance) of the Constitution of
22 the Commonwealth of the Northern Mariana Islands by amending Section 7 to
23 require the reduction of government employment and adding a new Section 10 to
24 authorize the Commonwealth to issue pension obligation bonds and for other
25 purposes.

26 **Section 7: Government Employment.** In the annual appropriations acts, the
27 legislature shall establish ceilings on the number of persons that may be employed by
28 each branch, department, agency, authority and public corporation of the
29 Commonwealth to which public funds are appropriated. Except upon specific

SENATE LEGISLATIVE INITIATIVE NO. 16-10, HS1

1 approval by joint resolution of the legislature, no public funds may be expended for
2 personnel in excess of the ceilings so established. Upon the enactment of this
3 provision, the legislature shall reduce the number of government employees by two
4 and one half percent each fiscal year until the total government budget allocation for
5 personnel is sixty percent or less of the general revenues of the Commonwealth.

6 **Section 10: Pension Obligation Bonds.** Following the affirmative
7 vote of two-thirds of the members in each house of the legislature, the
8 Commonwealth may issue pension obligation bonds in a cumulative amount
9 (excluding refunding bonds) not to exceed its actuarially determined unfunded
10 accrued liability. The net proceeds of each such bond issuance shall be
11 deposited and invested along with other monies in the defined benefit plan
12 trust fund administered by the Northern Mariana Islands Retirement Fund.
13 The bonds issued under this section shall comply with Section 3 of this
14 Article and shall be exempt from Section 4 of this Article.”

15 **Section 3. Adoption and Transmittal.** The President of the Senate and the
16 Speaker of the House shall certify, and the Senate Legislative Secretary and House Clerk
17 shall attest to the passage of this Legislative Initiative. The Senate Clerk shall then cause
18 the Initiative to be transmitted to the Governor and the Board of Elections. Pursuant to
19 Article XVIII, Section 5 of the Commonwealth Constitution, the Board shall place this
20 Legislative Initiative, with the Findings and Purpose section herein, before the people of
21 the Commonwealth for ratification vote at the earlier of the next regular general election
22 or the next special election established by law.

Date: 10/02/08

Introduced By: /s/Sen. Maria Frica T. Pangelinan

/s/ Sen. Felix T. Mendiola
/s/ Sen. Paul A. Manglona
/s/ Sen. Pete P. Reyes
/s/ Sen. Henry H. San Nicolas
/s/ Sen. Joseph M. Mendiola
/s/ Sen. Jude U. Hofschneider
/s/ Sen. Luis P. Crisostimo