CHAPTER 8
RETIREMENT OF PUBLIC EMPLOYEES

NOTE: P.L. 23-042:1 (Sept. 29, 1995) created a new Defined Contribution Plan for all government employees hired after October 1, 1995, and allowed certain employees participating in the existing retirement system to change to the new plan. This public law codified existing provisions of Chapter 8 (§§ 8101 – 8172) into Article 1, and designated the new Defined Contribution Plan as Article 2. The Compiler altered the numerical scheme from P.L. 23-042 to harmoniously fit the chapter, in accordance with the authority granted by 1 GCA § 1606.

2025 NOTE: Pursuant to 5 GCA § 1510, I Maga'hågan/Maga'låhen Guåhan means the "Governor of Guam" and I Maga'håga/Maga'låhi means the "Governor." Pursuant to 2 GCA § 1101, I Liheslaturan Guåhan means the "Guam Legislature."

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§ 8101. Retirement Fund: Purpose.

The purpose of the Fund is to provide retirement annuities and other benefits for the employees of the government of Guam who become aged or otherwise incapacitated, and widows' annuities and other benefits to the dependents of such employees, thereby enabling the employees to accumulate reserves for themselves and their dependents to meet, without prejudice or hard ship, the hazards of old age, disability, death and termination of employment, with the objective of encouraging qualified personnel to enter and remain in the service of the Government, thus effecting economy and efficiency in the administration of the Government.

SOURCE: GC § 4200.

§ 8101.1. Statement of Legislative Concern.

(a) The actuarial valuation of the Government of Guam Retirement Fund issued October 9, 1992 by, Deloitte & Touche expressed concern that "the Fund benefit levels are excessive in comparison to most other government retirement systems. Benefit levels and retirement policy should be reviewed and benefits levels adjusted to match this policy. Because it may be difficult to decrease benefit levels for current members, it may be necessary to maintain current plan benefit levels for current government employees

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while establishing a new plan for all new members. In establishing benefit for a new plan, generally accepted retirement income level standards should be observed." I Liheslatura finds that the concern expressed by the independent actuaries is a warning that the Fund may be jeopardized if the benefits it provides to its members are not reasonably related and restricted to the resources from which benefits may be paid. Delay in examining this issue may lead to implementation of a plan for new members with benefits sharply disparate from those provided to present members. I Liheslatura concurs with the recommendation of the actuaries that the Plan's benefit levels and retirement policy should be reviewed and recommendations made to I Liheslatura for enactment of such statutory changes as may be necessary.

(b) No later than June 30, 1993, and not later than every two years thereafter, the Board shall submit to I Liheslatura its recommendations of amendments that need be made to the law establishing the Fund to protect and preserve the actuarial soundness of the Fund for the benefits of all its members.

SOURCE: Added by P.L. 22-006:12 (Mar. 29, 1993).

2025 NOTE: Reference to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 8101.2. Tax Qualification Requirements.

(a) The Fund shall maintain its status as a tax-qualified governmental pension plan under Section 401(a) of the Code. As used in this Article, "Code" means the United States Internal Revenue Code of 1986, as amended, applicable to Guam under the mirror provisions of the Guam Income Tax Code.

(b) The Fund shall be administered in accordance with the requirements of Section 401(a)(1), (2), (7), (8), (9), (16), (17), (25), (31), and (37) of the Code, as such provisions, as amended, apply to a governmental pension plan sponsored by the government of Guam. Without limiting the generality of the foregoing and notwithstanding any other provision of this Article to the contrary:

(1) In accordance with Sections 401(a)(1) and 401(a)(2) of the Code, the Board shall hold the corpus and income of the Fund in trust, and at no time prior to the satisfaction of all liabilities with respect to members and their beneficiaries shall any part of the corpus or income of the Fund be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries.

(2) In accordance with Section 401(a)(7) of the Code, in the event of the termination of or complete discontinuance of contributions to the Fund, the rights of all members to benefits accrued as of the date of such termination or discontinuance, to the extent then funded, shall be fully vested and nonforfeitable.

(3) In accordance with Section 401(a)(8) of the Code, benefits forfeited by a member for any reason shall not be applied to increase the benefits any other member or beneficiary would otherwise receive under this Article.

(4) All benefit distributions shall be administered in accordance with a reasonable good-faith interpretation of Section 401(a)(9) of the Code. The following describes the statutory requirements of Section 401(a)(9) of the Code:

(A) The member's entire interest shall be distributed to the member no later than the member's required beginning date, or the member's entire interest must begin to be distributed to the member no later than the member's required beginning date and must be paid over the life of the member, or the lives of the member and a designated beneficiary (or over a period that does not extend beyond the life expectancy of the member or the life expectancy of the member and a designated beneficiary). The "required beginning date" is April 1 of the calendar year following the later of

(i) the calendar year in which the member attains age 70½, or

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(ii) the calendar year in which the member retires.

(B) If the distribution of the member's interest has begun in accordance with Paragraph (A) and the member dies before the member's entire interest has been distributed, the remaining portion must be distributed at least as rapidly as under the method of distribution being used to satisfy Paragraph (A).

(C) If the member dies before distribution of the member's interest has begun under Paragraph (A), the member's entire interest shall be distributed, or begin to be distributed, no later than as follows:

(i) If the member's surviving spouse is the member's sole designated beneficiary, distributions to the surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the member dies, or by December 31 of the calendar year in which the member would have attained age 70½, if later;

(ii) If the member's surviving spouse is not the member's sole designated beneficiary, distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the member died, and shall be paid over the life of such designated beneficiary (or over a period not extending beyond the life expectancy of such beneficiary); or

(iii) If there is no designated beneficiary, the member's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.

(D) All death benefits shall be administered to comply with the incidental death benefit requirement in Section 401(a)(9)(G) of the Code.

(5) In accordance with Section 401(a)(16), benefits paid from, and mandatory employee contributions made to, the Fund shall not exceed the maximum benefits and the maximum annual additions, respectively, permissible under Section 415 of the Code with respect to governmental plans.

(A) Specifically, the "annual benefit," which is a benefit payable in the form of a straight life annuity, may not exceed the dollar limit described in Section 415(b)(1)(A) of the Code, as automatically adjusted for increases in the cost of living under Section 415(d) of the Code. For benefits payable in the plan year ending September 30, 2010, the dollar limit is $195,000. The 12-month plan year ending each September 30 shall be the "limitation year" for purposes of applying the limitations under Section 415 of the Code. Section 415 of the Code and the Treasury Regulations thereunder require that adjustments be made to the dollar limit for benefits that commence prior to age 62, or after age 65, and for benefits payable to members with less than ten years of membership. The Code and Treasury Regulations require that any benefit payable in a form other than a straight life annuity must be converted to an actuarially equivalent straight life annuity in applying the applicable limit to the "annual benefit".

(B) The "annual benefit" does not include the portion of the member's benefit attributable to mandatory employee contributions under Section 8136. Rather, mandatory employee contributions are treated as contributions to a defined contribution plan for purposes of Section 415 of the Code, and are therefore subject to the limits on annual additions under Section 415(c)(1) of the Code. The annual additions may not exceed the lesser of the two limits. The first limit is the dollar limit described in Section 415(c)(1)(A) of the Code, as automatically adjusted for increases in cost of living under Section 415(d) of the Code. For the limitation year ending September 30, 2010, the dollar limit is $49,000. The second limit is the compensation limit

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described in Section 415(c)(1)(B) of the Code which provides that the annual additions may not exceed 100% of the member's "Section 415 compensation" for the limitation year.

(C) "Section 415 compensation" means the member's Box 1, W 2 earnings for the year, modified to include any pre-tax elective deferrals pursuant to Sections 403(b), 457(b), 125, or 132(f)(4) of the Code. Generally, Section 415 compensation does not include amounts paid after severance from employment. However, Section 415 compensation does include amounts paid by the later of 2½ months after the member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses, or similar payments, and, absent the severance from employment, the payments would have been paid to the member while the member continued in employment with the government. Section 415 compensation also includes any payments to or for the benefit of a member who does not currently perform services for the government by reason of qualified military service, as defined in Subsection (9) of this Section, to the extent those payments do not exceed the amounts the member would have received if the member had continued to perform services for the government, rather than entering qualified military service. Section 415 compensation also includes "differential wage payments" within the meaning of Section 3401(h)(2) of the Code with respect to the period during which the member is on active duty in Qualified Military Service. Finally, Section 415 compensation includes payments awarded by an administrative agency, or court, or pursuant to a bona fide agreement by the government to compensate a member for lost wages. Such payments for back pay are treated as Section 415 compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included as Section 415 compensation under this Subsection.

(6) In accordance with Section 401(a)(17) of the Code, for purposes of calculating contributions payable to the Fund and benefits payable from the Fund, "salary," "annual salary," and "average annual salary" shall be subject to the annual limit on compensation under Section 401(a)(17) of the Code, which limit is adjusted automatically for increases in the cost of living under Sections 401(a)(17)(B) and 415(d) of the Code. For the plan year ending September 30, 2010, the limit is $245,000.

(7) In accordance with Section 401(a)(25) of the Code, in the case that the amount of the member's benefit payable by the Fund is to be determined on the basis of actuarial assumptions, such assumptions shall be specified under Fund documents.

(8) In accordance with Section 401(a)(31) of the Code, a "distributee" who is entitled to a distribution may elect, at the time and in the manner determined by the Board, to have any portion of an "eligible rollover distribution" that is equal to at least $500 (or such other minimum amount required under the Code or Treasury Regulations) paid directly in a "direct rollover" to an "eligible retirement plan." For purposes of these rules, the following definitions apply:

(A) "eligible rollover distribution" means any distribution of all or any portion of a member's vested benefit, except that an eligible rollover distribution shall not include:

(i) any distribution that is one of a series of substantially equal periodic payments made no less frequently than annually for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's beneficiary, or for a specified period of ten years or more;

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(ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and

(iii) the portion of any distribution that is not includible in gross income.

Notwithstanding the foregoing, a distribution shall not fail to be an eligible rollover distribution merely because the distribution consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract), or to a qualified retirement plan (defined contribution or defined benefit) described in Section 401(a) of the Code, or an annuity contract described in Section 403(b) of the Code, provided that the qualified trust or annuity contract agrees to separately account for amounts so transferred (and the earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion which is not so includible.

(B) "eligible retirement plan" shall mean any of the following accounts or plans to the extent it accepts the distributee's eligible rollover distribution:

(i) a qualified retirement plan described in Section 401(a) of the Code;

(ii) an individual retirement account described in Section 408(a) of the Code;

(iii) an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract);

(iv) an annuity plan described in Section 403(a) of the Code;

(v) an annuity contract described in Section 403(b) of the Code, or

(vi) an eligible deferred compensation plan described in Section 457(b) of the Code that is maintained by an eligible governmental employer described in Section 457(e)(1)(A) of the Code, and that agrees to separately account for amounts transferred into such plan from this plan.

(C) A "distributee" includes a member, the surviving spouse of a deceased member, and the current or former spouse of a member who is an alternate payee under a qualified domestic relations order that has been approved by the Board.

(D) A "direct rollover" is a direct payment by the Fund to the eligible retirement plan specified by the distributee.

(E) A non-spouse beneficiary may elect a direct rollover to an individual retirement account or individual retirement annuity described in Paragraph (B)(ii) or (iii) established for the purpose of receiving the distribution on behalf of the non-spouse beneficiary.

(F) A distributee may elect a direct rollover to a Roth IRA, as described in Section 408A of the Code, if the distributee meets the requirements that apply to rollovers from a traditional IRA to a Roth IRA (i.e., for tax years prior to January 1, 2010, the distributee's modified adjusted gross income cannot exceed $100,000, and the distributee must not be married filing a separate return).

(G) In prescribing the manner of making elections with respect to eligible rollover distributions, as described above, the Board may provide for the uniform application of any restrictions permitted under applicable sections of the Code and Treasury Regulations, including a requirement that a distributee may not elect to make a direct rollover from a single eligible

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rollover distribution to more than one eligible retirement plan. The Board may require a recipient plan to provide a written statement that it will accept the rollover and separately account for the amount rolled over, where appropriate.

(H) Prior to making an eligible rollover distribution, the Board shall provide the distributee a notice describing the distributee's right to make a direct rollover to an eligible retirement plan (the 402(f) Notice). The Board shall issue the 402(f) Notice at least 30 days, but no more than 180 days, prior to the date a distribution is made. However, such eligible rollover distribution may commence less than 30 days after the notice is given, provided that the 402(f) Notice clearly informs the distributee that the distributee has the right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a direct rollover, and the distributee, after receiving the notice, affirmatively elects a distribution.

(9) In accordance with Section 401(a)(37) of the Code, the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, provides certain pension benefit rights to employees who return to employment with their employer following a leave of absence for "qualified military service" as defined hereunder. § 8137.2 of this Chapter also provides certain rights to employees who are on leave without pay and on active duty with the Guam National Guard or the reserve components of any of the Armed Services of the United States. Any member who returns to employment with the government following qualified military service shall be entitled to the greater of the rights the member is entitled to under § 8137.2 of this Chapter, or the reemployment pension rights in Section 414(u) of the Code. In the case of a member who dies while performing qualified military service, the survivors of the member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Fund had the member resumed and then terminated employment on account of death. This would include the death benefits provided under §§ 8131 and 8134 of this Chapter. For purposes of this Section and applying the requirements of the USERRA, qualified military service means such term as defined in Section 414(u)(5) of the Code (any service in the U.S. Armed Forces - Army, Air Force, Navy, Marines, or Coast Guard; the Army National Guard and the Air National Guard, when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Service; and any other category of persons designated by the President in time of war or national emergency).

SOURCE: Added by P.L. 32-008:4 (Apr. 2, 2013) as § 8103.1. Renumbered by the Compiler to harmoniously fit this chapter.

2025 NOTE: Reference to "Territorial" omitted pursuant to 1 GCA § 420.

§ 8102. Tax Qualification Requirements: Title.

The Fund hereby created shall be known as the Government of Guam Retirement Fund. In such name or for the account thereof, all of its business shall be transacted, all of its money invested and all of its cash, securities and other property shall be held.

SOURCE: GC § 4201.

§ 8103. Tax Qualification Requirements: Operative Date.

The Fund shall become operative as of May 1, 1951.

SOURCE: GC § 4202.

§ 8104. Definitions.

Words and phrases, wherever used in this Chapter, unless a different meaning is clearly indicated by the context, shall have the following meanings:

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(a) "Fund" shall mean the Government of Guam Retirement Fund.

(b) "Board" shall mean the Board of Trustees provided for herein as the agency responsible for the direction and operation of the affairs and business of the system. Title to all assets of the Fund shall be held for the Fund by the Board or its qualified agents or custodians.

(c) "Employee" shall mean any person in the employ of the Government, in all occupational classifications, including a person whose work is classified as casual or temporary.

(d) "Member" shall mean any employee included in the membership of the Fund.

(e) "Service" shall mean actual employment by the Government as an employee for salary or compensation or service otherwise creditable as herein provided.

(f) "Prior service" shall mean service rendered prior to the operative date.

(g) "Membership service" shall mean service rendered on or after the operative date.

(h) "Total service" shall mean prior service, membership service and military service.

(i) "Salary" shall mean the amount received by an employee for service which shall include allowances for maintenance at the prescribed rate and any territorial post differential.

(j) "Average annual salary" shall mean the average of the three (3) highest annual salaries received by a member during her/his years of credited service or Six Thousand Dollars ($6,000) whichever is greater. The term average annual salary shall include contributions paid under § 8112 of this Title for employees who joined the Fund before June 1, 1989.

(k) "Regular" interest shall mean such rate as shall be fixed by the Board, provided that for the first five (5) years of operation of the Fund the rate shall be three per cent (3%) per annum, compounded annually.

(l) Child. The term "child" for the purpose of § 8134(a)(2) shall mean a member's unmarried child, by blood or adoption,

(1) under the age of eighteen (18) years, who lived in the same principal residence as the member who provided more than one-half (½) of the child's support;

(2) eighteen (18) years of age or older, but under twenty-four (24) years of age, attending high school or an accredited undergraduate educational institution full-time; or

(3) disabled prior to age eighteen (18) years. To establish a child's disability, the Board must receive, no later than one (1) year following the death of a member, examination report(s) by two (2) licensed physicians pronouncing that prior to age eighteen (18) years the child was, and currently remains, physically, mentally and permanently disabled and incapable of self-support.

(m) "Agent" shall mean such person, firm or corporation, other than an employee or Board member that is engaged by the Board to perform services or to render advice.

(n) "Custodian" shall mean any agent that is qualified and has assumed the responsibility for the physical possession of Fund assets.

(o) "Investment Agent" shall mean any agent that is qualified and has been engaged by the Board to provide investment advice.

(p) "Uniformed Personnel" means Guam Police Department Officers; Guam Fire Department Firemen; Customs and Quarantine Officers of the Customs and Quarantine Agency; Conservation Officers, Commodity Inspectors, and Entomologists of the Department of Agriculture; Guam Park

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Patrol Officers of the Department of Parks and Recreation; Corrections Officers of the Department of Corrections; Airport Police Officers and Security Personnel at the Antonio B. Won Pat International Airport Authority, Guam; Jose D. Leon Guerrero Commercial Port Security personnel; Marshals of the Supreme Court of Guam and the Superior Court of Guam; Probation Officers of the Judiciary of Guam; and Firefighters of the Antonio B. Won Pat International Airport Authority, Guam; and Youth Service Workers of the Department of Youth Affairs engaged in juvenile detention and rehabilitation. In all matters involving the uniformed personnel at the Antonio B. Won Pat International Airport Authority, Guam, the Jose D. Leon Guerrero Commercial Port, or the Department of Parks and Recreation, the Supreme Court of Guam and the Superior Court of Guam Marshals, and the Guam Police Department shall have concurrent jurisdiction with such personnel.

(q) "Join the Fund" means the act of the employee in making his or her first contribution to the Fund. If such employee separates from the government and withdraws his or her contribution, is later rehired by the government and repays his or her withdrawn contribution in the manner prescribed by this Title, join the Fund still means the original act of such employee in making his or her first contribution to the Fund when first hired.

(r) [Repealed.]

(s) [Repealed.]

(t) "COLA Award" shall mean the Cost of Living Allowance awarded in connection with Superior Court Case No. SP0206-93.

(u) "COLA Awardee" shall mean a retiree of the Fund who is a member of the COLA Class designated in Superior Court Case No. SP0206-93 as entitled to receive a Cost of Living Allowance.

(v) "Surviving Spouse" means a living spouse of a deceased, active or retired member of the Fund, or of a deceased COLA Awardee, in a marriage legally recognized by Title 19, Chapter 3 of the Guam Code Annotated, or in a marriage recognized by the laws of the jurisdiction where the marriage was contracted. A domestic relations order may provide that a former spouse shall be treated as the current spouse of a deceased member for purposes of eligibility for surviving spouse benefits under § 8134.

(w) "Tier 1 Capital" shall have the meaning set forth in regulations promulgated by the Federal Deposit Insurance Corporation as codified in the Code of Federal Regulations, 12 C.F.R. § 325, as amended from time to time.

SOURCE: GC § 4203. Subsection (j) amended by P.L. 10-121:1 (Mar. 20, 1970). Subsection (c) amended by P.L. 11-135:1 (April 26, 1972). Subsection (p) amended by P.L. 14-121:1 (Apr. 18, 1978). Subsection (q) added by P.L. 17-066:11 (Sept. 7, 1984). Subsection (j) amended by P.L. 19-019:59 (Aug. 22, 1988). Subsections (j), (q) amended by P.L. 20-004:7-8 (Apr. 10, 1989). Subsection (p) amended by P.L. 20-201:5 (Aug. 20, 1990) and P.L. 24-004:2 (Mar. 19, 1997). Subsections (r) and (s) added and (d) repealed and reenacted by P.L. 26-035:IV:12-14 (Sept. 28, 2001). Subsections (r) and (s) repealed, and (d) reenacted to its prior version by P.L. 26-058:10 (Nov. 20, 2001). Subsection (p) repealed and reenacted by P.L. 26-140:6 (Sept. 17, 2002). Subsections (t), (u) and (v) added by P.L. 29-004:10 (Sept. 6, 2007). Subsection (p) amended by P.L. 30-055:XII:25(a) (Sept. 4, 2009), effective Oct. 1, 2008 pursuant to P.L. 30-055:XII:25(b). Subsections (l) and (v) amended by P.L. 31-192:3-4 (Feb. 27, 2012). Subsection (w) added by P.L. 32-086:2 (Nov. 27, 2013). Subsection (p) amended by P.L. 33-109:2 (Feb. 3, 2016) and P.L. 35-068:2 (Feb. 13, 2020).

2025 NOTE: Past publications of the GCA erroneously included subsections (r) and (s) after they had been repealed by P.L. 26-058:10 (Nov. 20, 2001). These provisions stated:

> (r) "Beneficiary" shall mean a person other than the member, who is designated by a member or by the Fund to receive a benefit from the Fund.
>
> (s) "Fiduciary" shall mean a person who:

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(1) exercises any discretionary authority to manage a retirement system;

(2) exercise any authority to invest or manage assets of a system;

(3) provides investment advice for a fee or other direct or indirect compensation with respect to assets of a system or has authority or responsibility to do so; or

(4) is a trustee or a member of the Board of Trustees.

2024 NOTE: Past electronic publications of the GCA contained the version of subsection (d) reenacted by P.L. 26-035:IV:14 (Sept. 28, 2001), which stated:

(d) Member shall mean any employee included in the membership of the Fund who is or has been an employee enrolled in the Fund and who is or may be eligible to receive, or is currently receiving, a benefit, or whose beneficiaries are or may become eligible to receive a benefit. The term does not include an individual who is no longer in the employ of the government and has not accrued any non-forfeitable benefits in the Fund.

This definition was repealed shortly thereafter by P.L. 26-058:10 (Nov. 20, 2001), which stated: "Sections 11 through 28 of Chapter IV of Public Law 26-35 are hereby repealed, and [§] 8104(d) . . . of Title 4 of the Guam Code Annotated in existence prior to the enactment of P.L. 26-35 [is] hereby reenacted." The definition of "Member" published herein ("Member shall mean any employee included in the membership of the Fund") is the definition originally codified as § 4203(d) in the Government Code (1970).

2025 NOTE: Reference to "Territorial" in subsection (p) replaced with "Guam" pursuant to 1 GCA § 420.

§ 8105. Fund: Members.

The following employees shall be members of the Fund and subject to the provisions hereof:

(a) All employees, regardless of age or length of service, in the service of the Government on the operative date, shall become members of the Fund by virtue of their employment.

Any person who shall be on an approved leave of absence on the operative date, on account of disability or military service, shall be subject to membership as of such date, as though he were in active service. If such leave of absence was for any other cause, such person shall be subject to membership as of the operative date only if the leave of absence shall have extended, in the aggregate, for less than one (1) year at the operative date.

(b) All persons becoming employees after the effective date, shall become members as a condition of employment, provided they are under the age of sixty (60) years on the original date of entry into service.

(c) Provided, that any person who, on or after August 1, 1954, becomes an employee only for a definite agreed term, or who at the time of employment is not domiciled in Guam, shall have the option of accepting or rejecting membership and shall become a member only upon submission of a written request to the Board for membership; and provided further that any employee who on August 1, 1954, is an employee only for a definite agreed term, or who is not domiciled in Guam and who on August 1, 1954, is a member, shall have the option of continuing or terminating her/his membership, but shall continue to be a member until he submits to the Board a written request for termination of her/his membership.

(d) An employee of a public corporation of the Government or of the University of Guam shall have the option of accepting or rejecting membership and shall become a member only upon submission of a written request to the Board for membership.

(e) Any employee of the government of Guam whose employment is purely temporary, seasonal, intermittent or part-time shall have the option of accepting or rejecting membership and shall become a member only upon submission of a written request to the Board for membership.

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SOURCE: GC § 4204. Subsection (e) added by P.L. 11-135:2 (Apr. 26, 1972). Subsection (d) amended by P.L. 13-194:2 (Oct. 4, 1976). Subsection (b) amended by P.L. 18-048:24 (Jan. 2, 1987).

§ 8106. Fund: Ineligible Persons.

The following employees shall not be eligible for membership:

(a) Persons whose services are compensated on a fee basis.

(b) Independent contractors.

(c) Persons whose employment is for a specific project.

(d) Persons who are employed in the Senior Citizens Community Employment Program.

SOURCE: GC § 4205, amended by P.L. 11-135:3 (Apr. 26, 1972). Subsection (d) added by P.L. 16-109:5 (Sept. 10, 1982).

§ 8107. Prior Service Credit.

(a) Each person becoming a member on the operative date shall be entitled to prior service credit for service rendered the Government. In the case of any employee who shall have been a member of the Civil Service Retirement Fund of the United States Government and shall have received a refund or refunds of contributions made to such fund, the allowance of prior service credit shall be conditioned upon such person making a contribution to the fund of the full amount of refund or refunds received by such employee.

(b) Payment of such contribution shall be due as of the operative date and shall be made in a lump sum, or in installments under rules prescribed by the Board. Regular interest thereon shall begin to accrue from the operative date, which shall become a part of the principal sum to be paid by any such person.

(c) In the case of any employee who shall be a member of the Civil Service Retirement Fund of the United States Government at the operative, whether in an active or inactive status, prior service credit shall be granted only when such employee definitely terminates her/his membership in such fund and receives a refund of her/his accumulated contributions therefrom and makes a payment to this fund of the full amount thereof, including regular interest from the date of such termination, if subsequent to the operative date, to the date of payment.

(d) Each member entitled to prior service credit shall file with the Board, on a form prescribed by the Board and under such rules as it may adopt, a detailed statement of all such prior service for which the member claims credit. Such claim shall be verified by the Board as soon as practicable after the filing thereof. Upon such verification, the Board shall cause to be issued a statement of prior service, certifying to the member the length of prior service for which credit has been granted. Such statement shall be final and conclusive for the purposes of the Fund as to such service, except for the purposes of the Fund as to such service, except for the correction of error, provided that any member may, within one (1) year from the date of original issuance of such certificate, request the Board to modify or correct such prior service certificate. Such certificate shall become null and void upon the death of a member, and shall be canceled automatically upon receipt by a member of a refund of her/his contributions prescribed by the provisions of this Chapter. Any employee who shall not be in service on the operative date or who is on an approved leave of absence on such date, for disability, military leave or other cause, shall be entitled to receive credit for prior service only when such employee shall have completed at least three (3) years of contributing membership service subsequent to the operative date.

SOURCE: GC § 4206, as amended by P.L. 10-188:1 (Aug. 18, 1970).

2025 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

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§ 8108. Prior Service Credit: Credit for Service with Armed Forces.

(a) Prior Service. Prior Service credit shall be granted any employee who served in the Armed Forces of the United States prior to her/his employment with the government of Guam as though such service was rendered for the government of Guam, provided the employee shall not be receiving a pension or annuity, other than a disability pension or annuity, from the United States Government on account of such prior service or is eligible to receive such pension or annuity on account of such prior service.

(b) Subsequent Service.

(1) An employee shall be allowed credit for any active service in the Armed Forces of the United States subsequent to May 1, 1951, not to exceed five (5) years, provided that if the employee entered the Armed Forces while employed by the government of Guam and re-enters its employ within the period of one (1) year following her/his discharge from said Armed Forces under conditions other than dishonorable, or if upon said discharge, completes her/his education under the provisions of the various Acts of Congress extending educational benefits to veterans and re-enters its employ within six (6) months after completing such education, such employee may obtain said retirement credit (not to exceed five (5) years) without making contribution to the Fund, provided that the contribution of both the employee and the employer for such service shall be made by the government of Guam or the employer involved.

(2) If the employee was not employed by the government of Guam upon entering the Armed Forces he may obtain said retirement credit (not to exceed three (3) years) only upon making payment to the Fund of two (2) times the appropriate member contribution based on the period of credit sought to be obtained and the average salary paid the employee by the Armed Forces during that period ending with the termination of her/his military service which is equal to the period of credit sought to be obtained; provided, that while any employee may claim and pay in for such credit, no such credit shall be counted until and unless the employee has actually, subsequently worked for the government of Guam, its autonomous instrumentalities or agencies, for whatever time is otherwise required by law for vesting.

(3) For purposes of this Section, "salary" means

(A) basic pay, and

(B) any special pay which was taxable under federal income tax law.

SOURCE: GC § 4207; repealed and reenacted by P.L. 12-151:2 (June 28, 1974). Subsection (b) amended by P.L. 12-180:4 (Oct. 12, 1974), repealed and reenacted by P.L. 19-019:54 (Aug. 22, 1988).

2025 NOTE: Subsection designations added/modified in section (b) pursuant to authority granted by 1 GCA § 1606.

§ 8109. Prior Service Credit: Credit for Excluded Service.

Any person who has been required or is hereafter required to become a member as a condition of employment and who has performed service for which he rejected membership in accordance with § 8105(c) or for which he was ineligible for membership under the provisions of § 8106 may claim credit for such excluded service by paying to the Fund the contributions which he would have paid had such service not been excluded, together with regular interest thereon from the date on which such contributions would have been made had such service not been excluded to the date of actual payment.

SOURCE: GC § 4207.5.

§ 8110. Prior Service Credit: Subsequent Federal Service.

Any employee who shall have been employed by the government of Guam for a period of ten (10) years or more and who is a member of the Fund, who is appointed for a position within the United States

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Government which requires his continued residence within Guam and who has not terminated his membership in the Fund may be allowed credit for such federal service, provided he does not become a member of the Civil Service Retirement System and provided further that he pays to the Fund during the years for which he claims credit as a federal employee the contributions which he would have paid had his employment been with the government of Guam, together with regular interest thereon from the date on which such contributions would have been made had such service not been with the Federal Government to the date of actual payment.

SOURCE: GC § 4207.6.

§ 8110.1. Prior Service Credit: Previous Federal Service.

Any current member of the Fund who is active or retired and who has been appointed to a federal position and detailed to serve with the Government of Guam in the I Maga'håga/Maga'låhi's Office, after the effective date of the Organic Act until the inauguration date of the first elected I Maga'hågan/Maga'låhen Guåhan, may claim credit for such service provided he does not become a member of the U.S. Civil Service Retirement System and provided further that he pays to the Fund the contributions which he would have paid at his employment then with the Government of Guam, together with regular interest thereon from the date on which such contributions would have been made had such service not been with the federal government to the date of actual payment.

SOURCE: Added by P.L. 20-065:17 (Sept. 14, 1989).

2025 NOTE: Reference to the "Governor of Guam" replaced with I Maga'hågan/Maga'låhen Guåhan and reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

2022 NOTE: Reference to "Territory" omitted pursuant to 1 GCA § 420.

§ 8110.2. Prior Service Credit: Subsequent Service in an International or Regional Organization.

(a) Any employee who shall have been employed by the government of Guam for a period of ten (10) years or more and who is a member of the Fund, who is appointed for a position within an international or regional organization of governments under the United Nations system and who has not terminated membership in the Fund, may be allowed credit for such service, provided that the individual pays to the Fund during the years for which he or she claims credit as an international or regional employee the employer and employee contributions which he or she would have paid had employment been with the government of Guam, together with regular interest thereon from the date on which such contributions would have been made had such service not been with the international or regional organization to the date of actual payment.

(b) This Section shall apply to all persons who are employed by an international or regional organization under the United Nations system since 1990.

SOURCE: Added by P.L. 24-059:IV:26 (Sept. 12, 1997).

2025 NOTE: Subsection designations added pursuant to authority granted by 1 GCA § 1606.

§ 8111. Prior Service Credit: Credit for Educational Training Service.

Any person who was employed by the government of Guam prior to June 1, 1989, who takes leave of absence without pay or terminates from such employment in order to further his education may, when returning to employment with the government of Guam, claim retirement credit for such time so spent in furthering his education by paying to the Fund the contributions which he would have paid had such time so spent on education not been excluded by virtue of his leave of absence without pay or termination, together with regular interest thereon, from the date on which such contributions would have been made, had such time so spent not been excluded, to the date of actual payment; provided, however, that this Section

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shall apply only to those persons who resume employment in the government of Guam within two (2) years after completing their studies.

SOURCE: GC § 4207.7. Amended by P.L. 20-004:5 (Apr. 10, 1989).

§ 8112. Prior Service Credit: Credit For Subsequent Civil Service.

Any person who was a member of the Civil Service of the United States of America after May 1, 1951 and who prior to June 1, 1989 was employed by the government of Guam, shall be entitled to credit for services rendered the United States Government after May 1, 1951, not to exceed five (5) years. In the case of any such person who was a member of the Retirement Fund of the United States government, credit shall be granted only when he:

(a) definitely and finally terminates his membership in such Fund;

(b) definitely and finally renounces any future benefits due him thereunder;

(c) receives a refund of his accumulated contributions therefrom; and

(d) makes a payment to the Fund of the equivalent of the amount paid to the federal fund by him and his employer during the last five (5) years of his employment in the Civil Service or during the period ending with the termination of said employment which is equivalent to the period for which he seeks credit if less than five (5) years, including regular interest from the date of such termination to the date of payment.

SOURCE: GC § 4207.8 added by P.L. 12-180:5 (Oct. 12, 1974). Amended by P.L. 20-004:5 (April 10, 1989).

§ 8113. Early Retirement Credit.

Any person who is a current member of the Fund may apply for and receive up to five (5) years of retirement credit provided that:

(a) the person apply for such credit within six (6) months of the effective date of this Act;

(b) the person pay into the Retirement Fund an amount equal to their annual employee's contribution to the Fund at the time of their application, multiplied by the number of years of credit they are applying for, or sign a promissory note at an interest rate not exceeding the actuarially determined required rate of return to pay such amount in full within three (3) years of the date of the note;

(c) the person is a member of the Defined Benefit Plan or the Defined Contribution Plan;

(d) the employee has never previously retired under the Defined Benefit Plan or the Defined Contribution Retirement System;

(e) no employee shall be permitted to actually retire under this Early Retirement Credit any sooner than ninety (90) days after notifying the Director of the Retirement Fund of one's intent to retire under this Act;

(f) the person complies with this Section and all other provisions of this Act, and retires on a service retirement annuity within six (6) months after applying and qualifying for the early retirement credit; and

(g) the person has any of the following:

(1) twenty (20) years of service credit for retirement purposes prior to the purchase of additional retirement credit pursuant to this Act; or

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(2) fifteen (15) years of service credit for retirement purposes prior to the purchase of additional retirement credit pursuant to this Act, and is a member of the uniformed services of the government of Guam.

SOURCE: Added by P.L. 24-327:2 (Dec. 30, 1998). Amended by P.L. 25-002:2 (Feb. 17, 1999); P.L. 25-003:2 (Mar. 25, 1999).

2025 NOTE: This provision, formerly entitled "Credit for Education" (with source GC § 4207.9), was repealed by P.L. 18-046:2 (Jan. 2, 1987).

2011 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Lowercase Roman Numerals" to "Numbers" in subsection (g).

§ 8113.1. Failure to Fulfill Promissory Note Disqualifies.

A qualified applicant, meeting the time requirements set forth in § 8113 of this Title who fails to pay in full the amounts described in a promissory note to the Retirement Fund within three (3) years of the date of the note shall lose eligibility to purchase retirement credit under the provisions of § 8113 of this Chapter. The Retirement Fund in such cases shall refund to the applicant those amounts paid against the promissory note.

SOURCE: Added by P.L. 18-046:1 (Jan. 2, 1987). Repealed and reenacted by P.L. 19-019:52 (Aug. 22, 1988); amended by P.L. 20-004:6 (Apr. 10, 1989); repealed and reenacted by P.L. 24-327:3 (Dec. 30, 1998).

NOTE: See the Note following § 8136 regarding computation of interest at time of repayment to the Fund.

§ 8113.2. Payment in Full Must Be Received Prior to Use of Credit for Retirement Purposes.

Employees eligible to retire who opt to do so prior to payment of the full cost of the employee's share of the early retirement credit pursuant to the terms of the promissory note under § 8113(b) of this Chapter shall receive credit on a year by year basis as each full year of credit is paid for.

SOURCE: Added by P.L. 19-019:53 (Aug. 22, 1988). Repealed and reenacted by P.L. 24-327:4 (Dec. 30, 1998).

§ 8113.3. Employer Shares for Employees Applying for Early Retirement Credit.

The government of Guam shall pay to the Retirement Fund in full all employer's share of retirement contributions due for each applying employee within two (2) years of the date upon which the employee applied. The amount due from the government for each employee shall be equal to the annual employer's share of the retirement contribution for the employee at the time of application multiplied by the number of years of credit the employee is applying for.

SOURCE: Added as uncodified law by P.L. 19-019:55 (Aug. 22, 1988), codified by Compiler. Repealed and reenacted by P.L. 24-327:5 (Dec. 30, 1998).

§ 8114. Employer Shares for Employees Applying for Early Retirement Credit: Computation.

In the computation of credit for service for the purpose of the Fund, twelve (12) days or more of service during any month shall constitute a month of service, and service between six (6) and twelve (12) days during any month shall constitute one-half (½) month of service. Service of less than six (6) days during any month shall be disregarded. Nine (9) months of service or more during any year shall constitute a year of service. Not more than one (1) month of service shall be creditable on account of service rendered during any month and not more than one (1) year service shall be creditable on account of service rendered during any year.

SOURCE: GC § 4208.

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§ 8115. Employer Shares for Employees Applying for Early Retirement Credit: Service Prior to Operative Date.

Credit shall also be granted to any employee for services rendered after the operative date for which contributions shall have been made this Fund.

SOURCE: GC § 4209.

§ 8116. Credit for Sick and Annual Leave Not Utilized.

Any person employed by the government of Guam and a member of the Fund who has unused accumulated sick or annual leave upon the day of his retirement or disability may claim credit for every day of such leave to which he was entitled which he did not utilize, provided, that in the case of annual leave only, he makes the appropriate member contribution to the Fund for the period to be credited, such contribution to be deducted from the lump-sum payment made to the employee for such accumulated leave. If an employee does not desire to claim such credit, the lump-sum payment shall be made to him without such deduction. In calculating credit for purposes of this Section, twelve (12) days of accumulated leave shall constitute a month of service, between six (6) and twelve (12) days of accumulated leave shall constitute one-half (½) month of service and less than six (6) days shall be disregarded.

SOURCE: GC § 4209.1, as amended by P.L. 14-140:24 (Aug. 31, 1978).

§ 8117. Prior Service Credit: Credit for Casual or Temporary Employment.

Each person becoming a member of the Fund by virtue of that provision of Subparagraph (c) of § 8104 of this Chapter which defines "employee" to include certain casual or temporary employees, shall be entitled to excluded service credit for casual or temporary service rendered to the Government. The procedure set out in § 8107 of this Chapter shall apply to persons seeking excluded service credit under the provisions of this Section; provided, however, that all persons claiming such excluded service credit shall be entitled to make contributions for such excluded service in equal installments over a period of not to exceed ten (10) years; and further provided that if the year of the employee's retirement occurs prior to the expiration of the ten (10) year period, all such contributions shall be made in equal installments over the period prior to the date of retirement.

SOURCE: GC § 4209.2, as added by P.L. 11-135:4 (Apr. 26, 1972).

§ 8118. Prohibition Against Double Credit for Same Period of Time.

Should a member, for a specific period of time, be entitled to more than one of the types of credit authorized by this Chapter, he shall be allowed to obtain for said period of time only one type of credit, according to his election.

SOURCE: GC § 4209.3, as added by P.L. 12-180:7 (Oct. 12, 1974).

§ 8119. Retirement: [Members Who Joined Prior to October 1, 1981].

With respect to any member who joined the Fund prior to October 1, 1981:

(a) He or she may retire on a service retirement annuity, upon written application to and approval by the Board; provided that such member shall have attained at least sixty (60) years of age or fifty-five (55) years of age in the case of a member of the uniformed personnel and shall have completed at least ten (10) years of total service;

(b) If he or she is a member of the uniformed personnel, he or she shall, upon retirement, be placed on rank grade above that held by him on the date of retirement;

(c) If he or she has completed twenty-five (25) years of service, he or she may retire and shall be entitled to full retirement annuity;

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(d) Any retired employee who has previously elected to retire and who has completed at least twenty-five (25) years of service shall be eligible for full retirement benefits on and after the effective date of this Act;

(e) At his option, whether active or inactive, he or she may retire after twenty (20) years of service regardless of age. The retirement annuity for any employee or member described in this Paragraph shall be reduced one quarter (¼) of one percent (1%) of each month such employee or member is under the age of sixty (60) years, from the amount determined for such employee or member as hereinafter provided.

SOURCE: GCA § 4210. Repealed and reenacted by P.L. 16-009:1 (May 4, 1981).

§ 8120. Retirement: [Members Who Joined on or After October 1, 1981].

With respect to any member who joined the Fund on or after October 1, 1981:

(a) He or she may retire on a service retirement annuity, upon written application to and approval by the Board; provided that such member shall have attained at least sixty (60) years of age or fifty-five (55) years of age in the case of a member of the uniformed personnel and shall have completed at least fifteen (15) years of total service;

(b) If he or she is a member of the uniformed personnel, he or she shall, upon retirement, be placed one rank grade above that held by him on the date of retirement;

(c) If he or she has completed thirty (30) years of service, he or she may retire and shall be entitled to full retirement annuity;

(d) At his option, whether active or inactive, he or she may retire after twenty-five (25) years of service regardless of age. The retirement annuity for any employee or member described in this Paragraph shall be reduced one quarter (¼) of one percent (1%) for each month such employee or member is under the age of sixty (60) years, from the amount determined for such employee or member as hereinafter provided.

SOURCE: GC § 4210.1, as added by P.L. 16-009:2 (May 4, 1981).

§ 8120.1. Retirement: [Any Member of the Fund].

With the exception of members of the Fund prior to the effective date of this Section, any member of the Fund may retire:

(a) On a service retirement annuity, upon written application to and approval of the Board; provided that such member shall have attained at least sixty-five (65) years of age or sixty (60) years of age in the case of a member of the uniformed personnel, and shall have completed at least fifteen (15) years of total service;

(b) if he or she is a member of the uniformed personnel he or she shall, upon retirement, be placed one rank grade above that held by him on the date of retirement;

(c) if he or she has completed thirty (30) years of service he or she may retire and shall be entitled to full retirement annuity.

(d) at his option, whether active or inactive, he or she may retire after twenty-five (25) years of service regardless of age. The retirement annuity for any employee or member described in this Paragraph shall be reduced one quarter (¼) of one percent (1%) for each month such employee or member is under the age of sixty-five (65) years, from the amount determined for such employee or member as hereinafter provided.

SOURCE: Added by P.L. 17-066:8 (Sept. 7, 1984).

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§ 8121. Retirement. Suspension of Annuity Payment.

(a) [No text]

(1) A retired member who subsequently becomes an employee eligible for membership under § 8106 of this Title prior to January 1, 1999, shall, upon becoming so employed, have that member's right to receive payment of that member's annuity suspended for the duration of that member's employment, but all other rights pertaining to that member's annuity provided by this Article, including automatic increases therein, shall be retained by that member. The provisions of this Section shall not be applicable to any retired Judge or Justice designated and assigned by the Chief Justice to perform judicial duties in the courts of Guam as provided for in § 6115 of Title 7 GCA, or any person employed by the Department of Education in Guam schools, as a substitute teacher, facilities and maintenance personnel, such as maintenance, construction, plumbing, electrical, mechanical, or related trades and vocations, inclusive of trades helpers and assistants, or as a Certified Augmentation Teaching Service (CATS) employee as that term is defined by Title 17 GCA § 3127(b). Such employment shall be subject to the provisions of Subsection (d) of this Section. Notwithstanding the provisions of 4 GCA, the Guam Education Board shall determine, by board policy, the terms and conditions for the re-employment of government of Guam retirees to include whether the employee is paid over nine (9) or twelve (12) months or on a part-time basis, and must comply with all equal employment opportunity laws and the United States and Guam labor laws.

(2) The provisions of this Section shall not be applicable to any certified, registered or licensed health care professional, or ancillary service personnel, employed by the Guam Memorial Hospital Authority, the Guam Behavioral Health and Wellness Center, the Department of Public Health and Social Services, and the Judiciary of Guam; academic faculty positions at the University of Guam and the Guam Community College; a limited term police officer employed by the Guam Police Department, to include Police Officers I, II, III and Sergeant I and II, performing duties such as patrol officers, narcotic officers, criminal investigators and school resource officers; or limited term school bus drivers or automotive mechanics employed by the Department of Public Works; provided, that such person(s) occupies such positions for which no other qualified/certified applicants was available, and that such employment shall be on a fiscal year basis; subject to the provisions of Subsection (d) of this Section.

(3) The provisions of this Section shall not be applicable to employee(s) of the Office of I Maga'håga/Maga'låhi, employee(s) of the Office of I Sigundo Maga'håga/Maga'låhi, unclassified employee(s) appointed by I Maga'hågan/Maga'låhen Guåhan, and heads of autonomous agencies appointed by a governing board. An employee of I Maga'håga/Maga'låhi or I Sigundo Maga'håga/Maga'låhi's office or unclassified employee appointed by I Maga'hågan/Maga'låhen Guåhan and heads of autonomous agencies appointed by a governing board who has previously retired shall become a member of the Defined Contribution Retirement System.

(b) A retired member who subsequently becomes an employee eligible for membership under § 8106 of this Title on or after January 1, 1999 shall, upon becoming so employed, have that member's right to receive payment of that member's annuity suspended for the duration of that member's employment, and shall be ineligible for readmission to the Defined Benefit Plan, but all other rights pertaining to that member's annuity provided by this Article, including automatic increases therein, shall be retained by that member; except, that the retired member shall forfeit any enhanced benefits for which that member was eligible pursuant to the early retirement provisions of § 8121.1.

This Subsection shall not be construed to render a member ineligible for participation in the Defined Contribution Retirement System or the Deferred Compensation Program under Articles 2 and 3 of this Chapter, upon a retired member's subsequent employment with the government of Guam.

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(c) No employee voluntarily purchasing early retirement credit shall be rehired by the government of Guam in any position, whether contractual or otherwise, for at least three (3) years from the effective date of retirement, except for those exemptions listed under Item (a). The Retirement Fund shall make all individuals who voluntarily apply for early retirement credit aware that their purchase of such credit shall be construed as a voluntary waiver of their right to re-employment or reinstatement for a period of at least three (3) years.

(d) Any persons hired pursuant to the provisions of Item (a) of this Section who are subsequently rehired for consecutive school years shall be exempt from the requirements expected only of new employees, including, but not limited to, physical examinations with the exception of proof of certification, as a condition of such rehire.

(e) Any employee hired pursuant to § 8121(a), Chapter 8, Title 5 GCA shall only be eligible to enroll in the Government of Guam Health Insurance Program as an active employee.

(f) Any person who is elected to the Office of the Attorney General of Guam or the Office of Public Accountability, and who is retired from the government of Guam and receiving benefits, shall not relinquish, forfeit, or have such annuity suspended during the period of serving in such elected office.

SOURCE: Added as § 4210.1 by P.L. 12-224:1 (Feb. 1, 1975); amended by P.L. 15-107:3 (Mar. 5, 1980); renumbered to § 4210.2 by P.L. 16-009:2 (May 4, 1981); amended by P.L. 17-025:III:6 (Oct. 6, 1983); P.L. 21-048:9 (Sept. 19, 1991); P.L. 24-284:3 (Oct. 16, 1998); P.L. 24-327:6 (Dec. 30, 1998); P.L. 25:002:4 (Feb. 17, 1999); P.L. 25-002:4 (Feb. 17, 1999); P.L. 26-019:2 (May 31, 2001). Subsection (a) amended by P.L. 27-031:40 (Oct. 31, 2003), P.L. 28-183:3 (Jan. 29, 2007), P.L. 29-113:VI:43 (Sept. 30, 2008), P.L. 30-233:2 (Dec. 30, 2010), P.L. 31-001:2 (Feb. 22, 2011) effective retroactively to January 3, 2011 pursuant to P.L. 31-001:3, P.L. 31-233:XII:23 (Sept. 7, 2012). Subsection (e) added as uncodified law by P.L. 32-068:XII:7 (Sept. 11, 2013), and codified by the Compiler. Subsection (a) amended by P.L. 32-128:3 (Feb. 10, 2014). Subsection (e) added by P.L. 32-227:1 (Dec. 30, 2014), renumbered (f) by the Compiler pursuant to 1 GCA § 1606. Subsection (a) amended by P.L. 33-036:2 (June 10, 2015). Subsection (a)(1) amended by P.L. 37-034:2 (Aug. 5, 2023).

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. The Compiler has corrected manifest errors in past publications of the GCA, including incorrect public law numbers and dates. Reference to the "Governor of Guam" replaced with I Maga'hågan/Maga'låhen Guåhan, reference to the "Governor" replaced with I Maga'håga/Maga'låhi and reference to the "Lieutenant Governor" replaced with I Sigundo Maga'håga/Maga'låhi pursuant to 5 GCA § 1510.

2015 NOTE: Subsection designations added to section (a) by the Compiler pursuant to 1 GCA § 1606.

NOTE: Pursuant to P.L. 32-024:2 (May 6, 2013) which renamed the Department of Mental Health and Substance Abuse (DMHSA) to the Guam Behavioral Health and Wellness Center, and all references to DMHSA were altered to the Guam Behavioral Health and Wellness Center.

P.L. 28-045:10 (June 6, 2005) changed the name of the Department of Education to the Guam Public School System. The passage of P.L. 30-050:2 (July 14, 2009) reverted the name to the Department of Education.

CROSS REFERENCE: 4 GCA § 8206; 17 GCA § 3127.

§ 8122. Annuity: Amount.

(a) Formula. The basic retirement annuity payable to any member shall be the following:

(1) an amount equal to two percent (2.0%) of average annual salary for each of the first ten (10) years of credited service, and two and one half percent (2.5%) of average annual salary for each year, or part thereof, of credited service over ten (10) years;

(2) in addition, there shall be added to the amount set forth in Subsection (1) an amount equal to Twenty Dollars ($20.00) multiplied by each year of credited service, the total of which shall then be reduced by an amount equal to one hundredth of one percent (.01%) of said total for each One Dollar

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($1.00) that a member's average annual salary exceeds the amount of Six Thousand Dollars ($6,000.00);

(3) no basic retirement annuity shall exceed eighty-five percent (85%) of average annual salary; and

(4) the basic retirement annuity shall not, in any case, be less than One Thousand Two Hundred Dollars ($1,200.00) per year per member.

(b) Automatic Increases in Annuity. Any member receiving a basic retirement annuity and entitled to benefits under this Chapter shall receive each year on the anniversary date of the member's retirement or entitlement, an automatic "sliding scale" increase in the member's annual annuity, to be computed as follows:

(1) members receiving an annual annuity of Three Thousand Five Hundred Dollars ($3,500.00) or less shall receive an automatic annual increase of Six Hundred Dollars ($600.00);

(2) members receiving an annual annuity of more than Three Thousand Five Hundred Dollars ($3,500.00), but not more than Six Thousand Three Hundred Dollars ($6,300.00), shall receive an automatic annual increase of Four Hundred Dollars ($400.00);

(3) members receiving an annual annuity of more than Six Thousand Three Hundred Dollars ($6,300.00) but not more than Ten Thousand One Hundred Dollars ($10,100.00) shall receive an automatic annual increase of Three Hundred Dollars ($300.00); and

(4) members receiving an annual annuity of more than Ten Thousand One Hundred Dollars ($10,100.00) shall receive an automatic annual increase of Two Hundred Dollars ($200.00).

(c) Recomputation of Annuities Previously Given. The basic retirement annuity set forth in Subsection (a) shall be recomputed as follows:

(1) any member who commenced receiving a retirement annuity on or after September 1, 1972, but prior to July 1, 1984, and entitled to benefits under this Chapter shall have the member's basic annuity recomputed to reflect a one time One Hundred Dollar ($100.00) increase to that member's basic retirement annuity; and

(2) any member who commenced receiving a retirement annuity prior to September 1, 1972 shall have the member's basic retirement annuity recomputed based upon the formula set forth in Subsection (a) of this Section; provided, however, that any member receiving a retirement annuity on September 1, 1972 which is greater than the basic retirement annuity recomputed pursuant to Subsection (a) of this Section shall have that member's basic retirement annuity recomputed to reflect an amount equal to the sum of that member's annuity on September 1, 1972, plus five percent (5%) of the member's annuity on said date.

(d) Additions to Recomputed Annuities. The recomputed retirement annuity set forth in Subsection (c) shall be subject to any of the following applicable non-cumulative additions:

(1) any member who commenced receiving a retirement annuity prior to October 1, 1995, and who is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 2002, and ending on February 28, 2003, an additional Four Thousand Two Hundred Thirty-Eight Dollars ($4,238.00), to replace the amount known as the sum of the One Thousand Two Hundred Dollars ($1,200.00), One Thousand Five Hundred Dollar ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts.

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(2) any member who commenced receiving a retirement annuity prior to October 1, 1999, and who is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts; and

(3) any member who commenced receiving a retirement annuity on or after October 1, 1999, but prior to January 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(4) Any member who commenced receiving a retirement annuity on or after January 1, 2000, but prior to October 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(5) Any retirement annuitant who commenced receiving a retirement annuity prior to October 1, 1995, and who is entitled to retirement benefits under this Chapter shall receive, during the period commencing on March 1, 2003, and ending on October 28, 2003, prospective, non-cumulative supplemental annuity benefits as follows:

(A) Two Thousand Four Hundred Seventy-Two ($2,472.00) in Class 1 Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars ($1,200.00), One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual benefits formerly contained in various General Appropriation Acts, for those employees who retired as of October 1, 1977.

(B) One Thousand Seven Hundred Seventy-Two Dollars ($1,772.00) in Class 2 Retiree Supplemental Annuity Benefits comprised of the sum of One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1977, and October 1, 1980.

(C) One Thousand Three Hundred Sixty-Four Dollars ($1,364.00) in Class 3 Retiree Supplemental Annuity Benefits, comprised of the sum of One Thousand Five Hundred Dollars ($1,500.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1980, and October 1, 1982.

(D) Eight Hundred Seventy-Five Dollars ($875.00) in Class 4 Retiree Supplemental Annuity Benefits, composed of the sum of One Thousand Five Hundred Dollars ($1,500.00) in annual annuity benefits, formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1982 and October 1, 1995, or their survivors.

(E) No persons eligible for Class 1, 2, 3 or 4 Retiree Supplemental Annuity Benefits provided for in paragraph (5) of this Section shall receive such benefit if their regular annual retirement annuity prior to the supplemental amounts herein is more than Forty Thousand Dollars ($40,000.00). Persons eligible for Class 1, 2, 3, or 4 Retiree Supplemental Annuity Benefits shall only receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars ($40,000.00) in combined retirement annuities and supplemental retirement annuities and not more.

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(6) Any retirement annuitant who commenced receiving a retirement annuity prior to October 1, 1995, and who is entitled to retirement benefits under this Chapter, shall receive, during the period commencing on October 1, 2026,through September 30, 2027, for Fiscal Year 2027, prospective, non-cumulative supplemental annuity benefits as follows:

(A) Four Thousand Two Hundred Thirty-eight Dollars ($4,238) in Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars ($1,200), One Thousand Five Hundred Dollars ($1,500), Seven Hundred Dollars ($700), and Eight Hundred Thirty-eight Dollars ($838) in annual benefits formerly contained in various General Appropriation Acts.

(B) No retiree who is eligible for Retiree Supplemental Annuity Benefits provided for in this Section shall receive such benefit if her/his regular annual retirement annuity, excluding the supplemental amounts authorized herein and survivor benefits, exceeds Forty Thousand Dollars ($40,000). A retiree who is eligible for Retiree Supplemental Annuity Benefits shall receive no more than Forty Thousand Dollars ($40,000) in combined retirement annuities and supplemental retirement annuities.

(C) Any retiree or survivor eligible to receive the supplemental annuity may waive the supplemental annuity payment authorized herein by the filing of a notarized affidavit waiving such payment with the Retirement Fund.

SOURCE: GC § 4211. Subsections (b), (d) repealed and reenacted by P.L. 12-151:7-8 (June 28, 1974). Subsection (e) added by P.L. 15-135:1 (Aug. 22, 1980), repealed and reenacted by P.L. 16-114:5 (Oct. 19, 1982). Subsections (b), (d) amended by P.L. 17-066:1-2 (Sept. 7, 1984). Introductory sentence amended by P.L. 17-082:5 (Dec. 21, 1984). Entire provision amended by P.L. 25-072:IV:4 (Sept. 30, 1999). Subsection (d)(4) added by P.L. 25-174:2 (Nov. 28, 2000). Subsections (d)(1) amended and (d)(5) added by P.L. 26-036:27-28 (Oct. 1, 2001). Subsections (d)(1), (5) amended by P.L. 27-005:IV:23, 28 (Feb. 28, 2003). Subsection (d)(6) added by P.L. 27-029:IV:18 (Sept. 19, 2003); repealed and reenacted by P.L. 27-106:IV:18 (Sept. 30, 2004); amended by P.L. 28-068:III:12 (Sept. 30, 2005), P.L. 28-150:IV:II:4 (Sept. 30, 2006), P.L. 29-019:V:II:4 (Sept. 29, 2007), P.L. 29-113:V:II:4 (Sept. 30, 2008), P.L. 30-055:XI:5 (Sept. 4, 2009), P.L. 30-196:XI:5 (Sept. 1, 2010), P.L. 31-077:XI:5 (Sept. 20, 2011), P.L. 31-233:XI:6 (Sept. 7, 2012), P.L. 32-068:XI:6 (Sept. 11, 2013), P.L. 32-181:XI:4 (Sept. 5, 2014), P.L. 33-066:XI:4 (Sept. 5, 2015), P.L. 33-185:XI:4 (Sept. 10, 2016), P.L. 34-042:XI:4 (Sept. 16, 2017), P.L. 34-116:XI:4 (Aug. 24, 2018), P.L. 35-036:XI:4 (Sept. 4, 2019), P.L. 35-099:XI:4 (Sep. 15, 2020); P.L. 36-054:XI:4 (Sept. 11, 2021), P.L. 36-107:XI:4 (Sept. 12, 2022), P.L. 37-042:XI:4 (Sep. 11, 2023), P.L. 37-125:XI:4 (Sept. 11, 2024), P.L. 38-060:XI:4 (Sept. 29, 2025), and P.L. 38-136:XI:4 (Aug. 28 2026).

2025 NOTE: Because P.L. 26-036:28 (Oct. 1, 2001) had already added a new subsection (d)(5), the language in P.L. 27-005:IV:28 (Feb. 28, 2003) to "Add a new item (5) to 4 GCA § 8122(d)" is treated as an amendment. The Compiler has corrected manifest errors in past publications of the GCA, including incorrect public law numbers and dates, and legislative history.

2014 NOTE: Subsection designations in subsection (d) were altered to conform with the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 8122.1. Adjustments.

(a) When an error is made in the records maintained by the Fund or by the government, or in the contributions made on behalf of a member, or in computing a benefit, and, as a result, a member or beneficiary is entitled to receive from the Fund more or less than the member or beneficiary would have been entitled to receive had the records or contributions been correct or had the error not been made, then

(1) the records, contributions, or error shall be corrected, and

(2) as far as practicable, future payments or benefit entitlement shall be adjusted so that the actuarial equivalent of the annuity or benefit to which the member or beneficiary was correctly entitled shall be paid.

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If no future payment is due, a person who was paid any amount to which the person was not entitled is liable for repayment of that amount, and a person who was not paid the full amount to which the person was entitle shall be paid the balance of that amount.

(b) An adjustment that requires the recovery of benefits may not be made under this section if:

(1) the error was not the result of erroneous information supplied by the member of beneficiary;

(2) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error; and

(3) the incorrect benefit was first paid four years or more before the member or beneficiary was notified or the error.

(c) At every regularly scheduled meeting of the Board of Trustees of the Fund, the Director shall report to the Board on all situation since the Director's last report in which an adjustment has been prohibited under (b) of this section. If the Board finds that there is reason to believe that one or more of the conditions set out in (b) of that section have not been met, the Director shall notify the member or beneficiary that an adjustment will be made to recover the overpayment.

(d) Notice of the adjustment under this Subsection shall include a statement that the affected member or beneficiary may appeal the adjustment to the record by notifying the Director, in writing, within thirty (30) days after receipt of notice that the records will be adjusted. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the Board for a waiver of the adjustment in accordance with Section 8122.2(b). An adjustment shall not be required while the appeal is pending.

(e) The Fund shall pay regular interest on amounts owed to a member or beneficiary.

(f) Interest shall be charged on amounts owed to the Fund by a member or beneficiary if the amount owed is the result of erroneous information supplied by the member or beneficiary, or if the member or beneficiary had reasonable grounds to believe the amount of the benefit was in error. The interest paid under this subsection shall be equal to the rate established in § 8137(c) for which the correct payment was due and shall continue until an actuarial adjustment to the benefit is effective or the amount owed is paid.

SOURCE: Added by P.L. 20-150:4 (Mar. 21, 1990). Repealed by P.L. 25-072:IV:5 (Sept. 30, 1999). Reenacted by P.L. 28-068:IV:96 (Sept. 30, 2005).

§ 8122.2. Waiver of Adjustments.

(a) Upon appeal to the Board by an affected member or beneficiary under (b) of this section, the Board may waive an adjustment or any portion of an adjustment made under § 8122.1 if, in the opinion of the Board:

(1) the adjustment or portion of the adjustment will cause undue hardship to the member or beneficiary;

(2) the adjustment was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary had no reasonable grounds to believe the records were incorrect or a mistake had been made before the adjustment was made.

(b) In order to obtain consideration of a waiver under this section, the affected member or beneficiary must appeal to the Board in writing within thirty (30) days after receipt of notice that an adjustment is to be made.

(c) The Board may conduct a hearing on an appeal under this Section.

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(d) The Board may impose conditions on the granting of a waiver which it considers equitable. These conditions may include requiring the member or beneficiary to make additional contributions, with interest, to the Fund.

(e) The Board may reconsider a ruling under this section, pursuant to the procedures set fort[h] in the Administrative Adjudication Act.

SOURCE: Added by P.L. 28-068:IV:96 (Sept. 30, 2005).

§ 8123. Disability.

(a) [No text]

(1) A member less than sixty-five (65) years of age, who shall become totally and permanently disabled for service, either mentally or physically, regardless of how or where the disability shall have occurred after joining the retirement fund,

(A) shall be entitled to a disability retirement annuity; provided, that he is not receiving disability payments from the United States Government for substantially the same ailment; and further provided that,

(B) [No text]

(i) to be eligible for a disability retirement annuity from a non-occupational cause, he shall have had at least six (6) years of actual service as a member of the Government of Guam Retirement Fund prior thereto, or

(ii) five (5) years of actual service as a member of the Government of Guam Retirement Fund prior thereto if he has been medically certified to be terminally ill.

(2) A person shall not qualify for a disability retirement annuity if his disability arises from an impairment occurring prior to his employment by the government of Guam.

(A) A total and permanent disability for the purposes of this Chapter is one which results from some impairment of body or mind which can be expected to result in death, or can be expected to last for a continuous period of not less than twelve (12) months.

(B) The impairment shall be one that substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation that he would be competent to perform were it not for that impairment, and if founded upon condition which render it reasonably certain that it will continue indefinitely.

(b) Such annuity shall begin to accrue upon the later of:

(1) commencement of disability; or

(2) date of Board approval;

provided, that if the member is receiving salary for sick leave, payment shall accrue from the date salary ceases.

(c) As a condition of membership in the Retirement Fund, an employee shall have a physical examination performed at the employee's expense and a report of the exam shall be submitted to the retirement fund within sixty (60) days of employment. An employee's failure to provide the Retirement Fund with a report of the physical examination will render the member ineligible for disability retirement.

SOURCE: GC § 4212; amended by P.L. 15-075:3 (Nov. 9, 1979); Subsection (a) amended by P.L. 17-066:5 (Sept. 7, 1984) and P.L. 18-005:7 (May 28, 1985). Repealed and reenacted by P.L. 24-315:2 (Dec. 23, 1998).

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2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations added/altered pursuant to authority of 1 GCA § 1606.

§ 8124. Disability: Written Certification Required.

A member shall be required to undergo two (2) medical examinations to be performed and submitted by at least two (2) licensed and practicing physicians selected by the Board certifying that the member is totally and likely to be permanently disabled for the future performance of the duties of any assigned position in the service of the government. If upon consideration of the report of such physicians, the medical consultant and such other evidence as shall have been presented to it by the member, or others interested therein, the Board finds the member to be totally and permanently disabled, it shall grant him a disability retirement annuity upon written certification that the member has been separated from the service of the employer because of total disability of such nature as to reasonably prevent further service for the employer, and as a consequence is not entitled to compensation from the government.

SOURCE: GC § 4212.1, as added by P.L. 13-199:2 (Nov. 11, 1976). Repealed and reenacted by P.L. 24-315:3 (Dec. 23, 1998).

2026 NOTE: Former title "Same" replaced by the Compiler with "Disability" for clarity.

§ 8125. Disability: Amount of Disability Retirement Annuity.

(a) The amount of basic disability retirement annuity shall be sixty-six and two-thirds percent (66 2/3%) based on the average of the three (3) highest annual salaries received by a member during that member's years of credited service.

(b) The annuity in Subsection (a) shall be reduced by any amounts awarded to a member under worker's compensation laws for substantially the same impairment.

(c) The Board may revoke any and all disability retirement annuity benefit(s) if a member fails to report a worker's compensation award for substantially the same impairment.

(d) As used in this Section "annual salary" means the base pay and non base pay for which the members contributed to the Fund as provided in § 8136(c) of this Chapter.

(e) Any disability retirement annuitant who shall have the annuitant's annuity recomputed as of December 1, 1972, shall receive an automatic increase of the annuitant's then recomputed annuity in the amount of one and one half percent (1½%) thereof on December 1, 1972.

(f) Any disability retirement annuitant who, between April 1, 1970 and December 1, 1972, became entitled to receive a disability retirement annuity, shall have the annuitant's basic disability retirement annuity increased on December 1, 1972, by an amount equal to one half percent (½%) thereof for each four (4) month period that the annuitant was in receipt of the annuitant's annuity.

(g) Any disability retirement annuitant who receives less than Six Thousand Dollars ($6,000.00) salary during that person's employment shall have the annuitant's disability retirement annuity recomputed at a Six Thousand Dollar ($6,000.00) salary level, subject to the additions set forth in § 8129.

SOURCE: GC § 4212.2, as added by P.L. 13-199:3 (Nov. 11, 1976); amended by P.L. 14-119:1 (Apr. 14, 1978), P.L. 16-009:7 (May 4, 1981) and P.L. 17-066:6 (Sept. 7, 1984). Repealed and reenacted by P.L. 24-315:4 (Dec. 23, 1998) and P.L. 25-072:IV:6(a) (Sept. 30, 1999).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including incorrect public law numbers and dates, and omissions of legislative history.

2026 NOTE: Former title "Same" replaced by the Compiler with "Disability" for clarity.

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§ 8126. Disability: Appeal of Medical Certification.

Any member, who is not satisfied with the decision of the physician or physicians engaged by the Board, may appeal said decision to the Board of Trustees within sixty (60) days after receiving notification of said decision of the medical examiner. The Board upon appeal by a member, shall order another medical examination by a different physician or physicians and after hearing the appeal based upon said information, its decision shall be final and binding.

SOURCE: GC § 4212.3, as added by P.L. 13-199:4 (Nov. 11, 1976).

2026 NOTE: Former title "Same" replaced by the Compiler with "Disability" for clarity.

§ 8127. Disability: Resumption of Employment.

(a) [No text]

(1) Following the allowance of a disability annuity to any member, the Board of Trustees shall require any disability annuitant to undergo two (2) medical examinations during the first seven (7) years under disability retirement and may require additional medical examination at least once in every five (5) year period thereafter, to be made at a place mutually agreed upon, by a physician or physicians engaged by the Board.

(2) The medical examination shall not be required after the member, under the member's applicable retirement plan, reaches regular retirement age or where years of actual service plus actual years on disability equals the amount of years that would qualify the member to retire as a regular retiree, whichever is earlier. If any examination indicates that the annuitant is no longer physically or mentally incapacitated for service, or that he is engaged or is able to engage in a gainful occupation, payment of the disability annuity by the Fund shall be discontinued as soon as the disability annuitant is reinstated to the payroll, but in no case shall payments be made for more than sixty (60) days after physicians and a medical consultant engaged by the Board find the annuitant is no longer incapacitated for service.

(b) Should the annuitant become able to resume a gainful occupation and his earnings therefrom be less than his salary at the date of retirement or that salary currently paid for similar positions, whichever is lower, the Board shall continue the disability allowance in an amount which added to his earnings from a gainful occupation, shall not exceed his salary at the date of retirement or the salary currently paid for similar positions, whichever is lower.

(c) Any disability annuitant who is restored to active service shall have deductions taken for the Retirement Fund and upon subsequent retirement shall have the annuitant's retirement allowance based upon all allowable service, including that upon which the disability allowance is based.

SOURCE: GC § 4212.4, as added by P.L. 13-199:5 (Nov. 11, 1976); repealed and reenacted by P.L. 17-066:9 (Sept. 7, 1984); Subsection (a) amended by P.L. 20-221:43 (Dec. 31, 1990); repealed and reenacted by P.L. 24-315:5 (Dec. 23, 1998); amended by P.L. 29-111:1 (Aug. 26, 2008). Subsection (c) added by P.L. 25-072:IV:7(b) (Sept. 30, 1999).

2026 NOTE: Former title "Same" replaced by the Compiler with "Disability" for clarity.

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations added in Subsection (a) pursuant to authority by 1 GCA § 1606.

§ 8128. Disability: Refusal to Submit to Medical Examination.

Should any disability annuitant refuse to submit to a medical examination as herein provided, payments by the fund shall be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all rights of the member in any disability annuity may be revoked by the Board.

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SOURCE: GC § 4212.5, as added by P.L. 13-199:6 (Nov. 11, 1976).

2026 NOTE: Former title "Same" replaced by the Compiler with "Disability" for clarity.

§ 8129. Disability: Automatic Increases in and Additions to Recomputed Annuities.

The recomputed disability retirement annuity set forth in § 8125 of this Chapter shall be subject to any of the following applicable non-cumulative additions:

(a) Any member receiving a disability retirement annuity shall receive each year on the anniversary date of that person's retirement or entitlement, an automatic sliding scale increase to be computed as follows:

(1) disability retirement annuitants receiving an annual annuity of Three Thousand Dollars ($3,000.00) or less shall receive an automatic annual increase of Three Hundred Dollars ($300.00);

(2) disability retirement annuitants receiving an annual annuity of more than Three Thousand Dollars ($3,000.00), but not more than Six Thousand Dollars ($6,000.00) shall receive an automatic annual increase of Two Hundred Fifty Dollars ($250.00);

(3) disability retirement annuitants receiving an annual annuity of more than Six Thousand Dollars ($6,000.00), but not more than Ten Thousand Dollars ($10,000.00), shall receive an automatic annual increase of Two Hundred Dollars ($200.00); and

(4) disability retirement annuitants receiving an annual annuity of more than Ten Thousand Dollars ($10,000.00) shall receive an automatic annual increase of One Hundred Dollars ($100.00).

(b) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1995, and who is entitled to disability retirement benefits under this Chapter shall receive, during the fiscal years commencing on October 1, 2002 and ending on February 28, 2003, an additional Four Thousand Two Hundred Thirty-Eight Dollars ($4,238.00), to replace the sum known as the One Thousand Two Hundred Dollars ($1,200.00), One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollar ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts.

(c) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1999, and who is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(d) Any disability retirement annuitant who commenced receiving a disability retirement annuity on or after October 1, 1999, but prior to January 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(e) Any disability retirement annuitant who commenced receiving a disability retirement annuity on or after January 1, 2000, but prior to October 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

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(f) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1995, and who is entitled to disability retirement benefits under this Chapter shall receive, during the period commencing on March 1, 2003, and ending on October 28, 2003, prospective non-cumulative supplemental annuity benefits as follows:

(1) Two Thousand Four Hundred Seventy-Two ($2,472.00) in Class 1 Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars ($1,200.00), One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual benefits formerly contained in various General Appropriation Acts, for those employees who retired as of October 1, 1977.

(2) One Thousand Seven Hundred Seventy-two ($1,772.00) in Class 2 Retiree Supplemental Annuity Benefits comprised of the sum of One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1977, and October 1, 1980.

(3) One Thousand Three Hundred Sixty-Four Dollars ($1,364.00) in Class 3 Retiree Supplemental Annuity Benefits, comprised of the sum of One Thousand Five Hundred Dollars ($1,500.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1980, and October 1, 1982.

(4) Eight Hundred Seventy-Five Dollars ($875.00) in Class 4 Retiree Supplemental Annuity Benefits, composed of the sum of One Thousand Five Hundred Dollars ($1,500.00) in annual annuity benefits, formerly contained in various General Appropriation Acts, for those employees who retired between October 2, 1982, and October 1, 1995, or their survivors.

(5) No persons eligible for Class 1, 2, 3 or 4 Retiree Supplemental Annuity Benefits provided for in paragraph (f) of this Section shall receive such benefit if their regular annual retirement annuity prior to the supplemental amounts herein is more than Forty Thousand Dollars ($40,000.00). Persons eligible for Class 1, 2, 3, or 4 Retiree Supplemental Annuity Benefits shall only receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars ($40,000.00) in combined retirement annuities and supplemental retirement annuities and not more.

(g) Any disability retirement annuitant who commenced receiving a disability retirement annuity prior to October 1, 1995, and who is entitled to disability retirement benefits under this Chapter shall receive, during the period commencing on October 1, 2026, through September 30, 2027, for Fiscal Year 2027, prospective non-cumulative supplemental annuity benefits as follows:

(1) Four Thousand Two Hundred Thirty-eight Dollars ($4,238) in Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars ($1,200), One Thousand Five Hundred Dollars ($1,500), Seven Hundred Dollars ($700), and Eight Hundred Thirty-eight Dollars ($838) in annual benefits formerly contained in various General Appropriation Acts.

(2) [No text]

(A) No persons eligible for Retiree Supplemental Annuity Benefits provided for in Paragraph (g) of this Section shall receive such benefit if their regular annual retirement annuity, excluding survivor benefits, prior to the supplemental amounts herein, exceeds Forty Thousand Dollars ($40,000).

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(B) No persons eligible for Retiree Supplemental Annuity Benefits shall receive more than the sum of Forty Thousand Dollars ($40,000) in combined retirement annuities and supplemental retirement annuities.

(3) Any disability retirement annuitant eligible to receive the supplemental annuity may waive their supplemental annuity payment authorized herein by the filing of a notarized affidavit waiving such payment with the Retirement Fund.

SOURCE: GC § 4212.6, as added by P.L. 13-199:7 (Nov. 11, 1976). Subsections (b), (d) and (e) repealed by P.L. 25-072:IV:6 (Sept. 30, 1999). Preamble (first paragraph) repealed by P.L. 25-072:IV:7(a). Repealed and reenacted by P.L. 25:072:IV:8. Subsection (e) added by P.L. 25-174:3 (Nov. 28, 2000). Subsection (b) amended by P.L. 26-036:29 (Oct. 1, 2001), PL. 27-005:IV:25 (Feb. 28, 2003). Subsection (f) added by P.L. 26-036:30 (Oct. 1, 2001), amended by P.L. 27-005:IV:27 (Feb. 28, 2003). Subsection (g) added by P.L. 27-029:IV:17 (Sept. 19, 2003); repealed and reenacted by P.L. 27-106:IV:17 (Sept. 30, 2004); amended by P.L. 28-068:III:11 (Sept. 30, 2005), P.L. 28-150:IV:II:3 (Sept. 30, 2006), P.L. 29-019:V:II:3 (Sept. 29, 2007), P.L. 29-113:V:II:3 (Sept. 30, 2008), P.L. 30-055:XI:4 (Sept. 4, 2009), P.L. 30-196:XI:4 (Sept. 1, 2010), P.L. 31-077:XI:4 (Sept. 20, 2011), P.L. 31-233:XI:5 (Sept. 7, 2012), P.L. 32-068:XI:5 (Sept. 11, 2013), P.L. 32-181:XI:3 (Sept. 5, 2014), P.L. 33-066:XI:3 (Sept. 5, 2015), P.L. 33-185:XI:3 (Sept. 10, 2016), P.L. 34-042:XI:3 (Sept. 16, 2017), P.L. 34-116:XI:3 (Aug. 24, 2018), P.L. 35-036:XI:3 (Sept. 4, 2019), P.L. 35-099:XI:3 (Sep. 15, 2020), P.L. 36-054:XI:3 (Sept. 11, 2021), P.L. 36-107:XI:3 (Sept. 12, 2022), P.L. 37-042:XI:3 (Sep. 11, 2023), P.L. 37-125:XI:3 (Sept. 11, 2024), P.L. 38-060:XI:3 (Sept. 29, 2025), and P.L. 38-136:XI:3 (Aug. 28, 2026).

2026 NOTE: Former title "Same" replaced by the Compiler with "Disability" for clarity.

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. Because P.L. 26-036:30 (Oct. 1, 2001) had already added a new subsection (f), the language in P.L. 27-005:IV:27 (Feb. 28, 2003) stating "Section 8129(f) is here by added" is treated as an amendment.

§ 8130. Refund on Separation.

(a) [No text]

(1) Upon complete separation from service before a member shall have completed at least twenty-five (25) years of total service, the member shall be entitled to receive a refund of his or her total contributions, including regular interest, but no payment of interest shall be made in any case in which total service is less than one (1) year. Total contributions shall include all contributions made by a member to obtain various types of credit authorized by this Chapter.

(2) Any member who withdraws after having completed at least five (5) years total service shall have the option of leaving his or her contributions in the Fund and receiving a service retirement annuity upon attainment of the age of sixty (60) years without choice of any of the optional survivors' benefits hereinunder described.

(3) If such member has less than twenty-five (25) years of total service, he/she may elect to receive his or her contributions, with regular interest, as herein above provided, in lieu of the service retirement annuity. If his or her total service is twenty-five (25) years or more, the acceptance of such deferred retirement annuity payment beginning at the age of sixty (60) years, shall be mandatory as to such member.

(4) Any member receiving a refund of contributions shall thereby forfeit, waive and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The Board may, in its discretion regardless of cause, withhold payment of a refund for a period not to exceed three (3) months after receipt of an application from a member.

(b) Any member who receives a refund of contributions shall thereafter be ineligible for membership in the Defined Benefit Plan.

SOURCE: GC § 4213, as amended by P.L. 12-180:8 (Oct. 12, 1974); second paragraph amended by P.L. 16-009:5 (May 4, 1981); fifth paragraph amended by P.L. 18-006:20 (June 20, 1985); sixth paragraph added by P.L. 18-041:6

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(Aug. 8, 1986). Repealed and reenacted by P.L. 19-019:60 (Aug. 22, 1988). Subsections (b) and (c) repealed and reenacted by P.L. 20-004:1 (Apr. 10, 1989); Subsection (d) amended by P.L. 20-004:2. Subsections (b), (c) and (d) repealed by P.L. 24-327:7 (Dec. 30, 1998). Subsection (b) added by P.L. 24-327:8. Amended by P.L. 27-068:3 (Feb. 6, 2004) to reflect the new minimum retirement time to 25 years of service instead of 20 years.

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations added in Subsection (a) pursuant to authority by 1 GCA § 1606.

NOTE: See the Note following § 8136 regarding computation of interest at time of repayment to the Fund. *See* Attorney General Opinion RF02-0250, referred to in P.L. 27-068.

§ 8131. Death Prior to Retirement without Survivor Benefits.

(a) Upon death of a member occurring before his retirement on a service retirement annuity or disability retirement annuity, leaving no persons eligible for survivor annuities as provided in § 8134 of this Chapter the following shall be payable:

(1) A refund of the total amount of contributions made by the member, including regular interest; and

(2) If the member was an employee at the date of death, a single sum death benefit payment in the amount of One Thousand Dollars ($1,000).

(b) Payment of these refunds and benefits shall be made to a beneficiary or beneficiaries designated by the member in a nomination filed with the Board, or if no such designation has been made, payment shall be made to the estate of the member.

SOURCE: GC § 4214, as repealed and reenacted by P.L. 11-171:2 (Sept. 11, 1972).

2025 NOTE: The Compiler has corrected a manifest error in past publications of the GCA, regarding an incorrect date.

2018 NOTE: Subsection designations added/altered pursuant to authority by 1 GCA § 1606.

§ 8132. Death After Retirement without Survivor Benefits.

(a) Upon death of a member while in receipt of a service retirement annuity or disability retirement annuity, leaving no person entitled to survivor annuities as provided in § 8134 of this Chapter, the following shall be payable:

(1) The total amount of contributions made by the member, including regular interest, less the total amount of annuity payments received by the member; and

(2) A single sum death benefit payment in the amount of One Thousand Dollars ($1,000).

(b) Payment of these refunds and benefits shall be made to the beneficiary or beneficiaries designated by the member, in a nomination filed with the Board or if no such designation has been made, payment shall be made to the estate of the member.

SOURCE: GC § 4215, as repealed and reenacted by P.L. 11-171:3 (Sept. 11, 1972).

2025 NOTE: The Compiler has corrected a manifest error in past publications of the GCA, regarding an incorrect date.

2018 NOTE: Subsection designations added/altered pursuant to authority by 1 GCA § 1606.

§ 8133. Death of Inactive Member.

Notwithstanding any other provision of this Chapter, upon the death of a member, not in service, who had completed at least twenty (20) years of total service prior to his separation, if a surviving spouse or children survive the member, said surviving spouse or guardian of surviving children if there is no surviving spouse, shall have the following options:

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(a) The surviving spouse may elect to receive an annuity as provided under § 8134(a)(1) or (a)(2) whichever is applicable and § 8134(c), if applicable; or

(b) If only a child or children survive, the guardian of said child or children may elect for the child or children to receive the annuity provided under § 8214(a)(3) and (c) if applicable; or

(c) The surviving spouse or guardian of surviving minor children if there is no surviving spouse, may elect to receive in lieu of the annuity above provided, a refund of the amount of the deceased member's accumulated contribution in the Fund including regular interest to the date of the death.

SOURCE: GC § 4216, as amended by P.L. 11-171:4 (Sept. 11, 1972).

2025 NOTE: The Compiler has corrected a manifest error in past publications of the GCA, regarding an incorrect date.

§ 8134. Survivor Annuities and Death Benefits.

Upon the death of a member who has completed at least three (3) years of total service, or upon the death of a member in the line of duty, survivor annuities and death benefits shall be payable to eligible survivors described in Subsection (a) for the applicable term set forth in Subsection (b).

(a) Eligible Survivors.

(1) The following persons shall be eligible to receive the following survivor benefits or death benefits as set forth in this Article. Eligibility shall be determined as of the date of death of a member, whether in service, in the line of duty, or in retirement.

(A) Surviving Spouse Annuity. A surviving spouse, as defined in § 8104(v), shall be eligible to receive a surviving spouse annuity upon the death of a member.

(B) Surviving Child Annuity. A member's unmarried child, by blood or adoption, who is:

(i) under the age of eighteen (18) years and lived in the same principal residence as the member who provided more than one-half (½) of the child's support;

(ii) eighteen (18) years of age or older, but under twenty-four (24) years of age, and a full-time student in high school, or an accredited undergraduate educational institution; or

(iii) disabled prior to age eighteen (18) years, shall be eligible to receive a surviving child annuity upon the death of a member based on the Rate Formula set forth in § 8135.

(2) To establish eligibility based on disability, the Board must receive, no later than one (1) year following the death of a member, examination report(s) by two (2) licensed physicians pronouncing that prior to age eighteen (18) years the child was, and currently remains, permanently physically or mentally disabled, and incapable of self-support.

(b) Term of Survivor Benefits.

(1) A surviving spouse annuity shall be payable as of the death of the member, and shall terminate upon the earlier of:

(A) the death of the surviving spouse; or

(B) the remarriage of the surviving spouse before the age of forty (40) years.

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(2) A surviving child annuity shall be payable to each eligible surviving child as of the death of the member, subject to the aggregate basic surviving child annuities for five (5) or more children under § 8135.

(3) A surviving child annuity shall terminate upon a child's

(A) death,

(B) marriage,

(C) attainment of age eighteen (18) years (unless the child is disabled, or attends high school or an undergraduate educational institution full-time),

(D) attainment of age twenty-five (25) years (unless the child is disabled), or if a previously disabled child is no longer disabled.

(c) Optional Provisions for Unmarried Employees. Upon retirement for services, any unmarried employee, whether male or female, if in good health as determined upon medical examination, may elect to receive in lieu of his or her full service retirement annuity, on an actuarial equivalent basis, a reduced annuity payable during his or her lifetime with an annuity payable to his or her designated beneficiary at the same rate and under the same conditions as are applicable to a surviving spouse of a member.

(1) The reduced retirement annuity payable to the member under this option shall be ninety percent (90%) of the full service retirement annuity if the designated beneficiary is of the same age, or older, or less than five (5) years younger than the retired employee.

(2) Such retirement annuity shall be reduced to the extent of one percent (1%) for each additional year above five (5) that the age of the member exceeds the age of the beneficiary; provided, that the reduced retirement annuity for the member shall in no event be less than sixty percent (60%) of the full service retirement annuity.

(d) Survivor Death Benefit. Upon the death of a member, while in service or in receipt of a service retirement or disability retirement annuity, if a surviving spouse or child survives the member, a single lump sum death benefit payment in the amount of One Thousand Dollars ($1,000) shall be payable.

SOURCE: GC § 4217, as repealed and reenacted by P.L. 11-171:5 (Sept. 11, 1972); Subsections (a)(1) and (a)(2) amended by P.L. 13-199:8-9 (Nov. 11, 1976). Subsection (f) added by P.L. 20-099:8 (Oct. 13, 1989). Subsection (c) amended by P.L. 24-189:2 (May 6, 1998). Subsection (a)(4) amended by P.L. 24-281:2 (Oct. 16, 1998). Subsection (a) amended by P.L. 26-010:1 (May 18, 2001). Repealed and reenacted by P.L. 31-192:5 (Feb. 27, 2012).

2025 NOTE: The Compiler has corrected a manifest error in past publications of the GCA, regarding an incorrect date.

2018 NOTE: Subsection designations added/altered pursuant to 1 GCA § 1606.

P.L. 26-010:2 (May 18, 2001) amended subsection (a) and included the following uncodified language:

> Section 2. Any child who survives a member who, as of the date of the death of the member is a full-time student, is under the age of twenty-four (24) years, and has been continuously enrolled as a full-time student since the death of the member shall be eligible for a survivor annuity until determined ineligible according to the provisions of this Act.

This language was never codified, and repealed by P.L. 31-192:2 (Feb. 27, 2012). Thus, this language was only in effect from May 18, 2001 until February 27, 2012.

§ 8135. Survivor Annuities and Death Benefits: Rate Formula.

(a) The annual survivor annuity payable under § 8134 shall be determined as follows:

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(1) Spouse. The annual survivor annuity shall be equal to sixty percent (60%) of the basic retirement annuity or the basic disability retirement annuity earned by the member and accruing to that member's credit, or payable to the member at the date of the member's death for the period of the member's total service, whichever is greater. The spouse's annual survivor annuity shall not, in any case, be less than One Thousand Two Hundred Dollars ($1,200) per year.

(2) Children. The basic minor child annuity shall be Two Thousand Eight Hundred Eighty Dollars ($2,880) per year for a minor child up to eighteen (18) years of age. The aggregate basic minor child annuity for children of a member shall not, in any case, exceed Fourteen Thousand Four Hundred Dollars ($14,400) per year for five (5) or more minor children.

(b) Automatic Increases in Annuity. Any survivor annuitant, not to include a minor child annuitant, who is entitled to benefits under this Chapter shall receive each year on the anniversary date of the annuitant's entitlement, an automatic "sliding scale" increase, to be computed as follows:

(1) survivor annuitants receiving an annual annuity of Three Thousand Five Hundred Dollars ($3,500.00) or less shall receive an automatic annual increase of Six Hundred Dollars ($600.00);

(2) survivor annuitant receiving an annual annuity of more than Three Thousand Five Hundred Dollars ($3,500.00), but not more than Six Thousand Three Hundred Dollars ($6,300.00), shall receive an automatic annual increase of Four Hundred Dollars ($400.00);

(3) survivor annuitants receiving an annual annuity of more than Six Thousand Three Hundred Dollars ($6,300.00), but not more than Ten Thousand One Hundred Dollars (10,100.00), shall receive an automatic annual increase of Three Hundred Dollars ($300.00); and

(4) survivor annuitants receiving an annual annuity of more than Ten Thousand One Hundred Dollars ($10,100.00) shall receive an automatic annual increase of Two Hundred Dollars ($200.00).

(c) Recomputation of Annuities. The basic survivor annuity set forth in Subsection (a)(1) of this Section shall be recomputed as follows:

(1) any person receiving a survivor annuity prior to August 31, 1974 shall have that person's basic annuity recomputed based upon the formula set forth in §§ 8104(j), 8122(a)(1), 8122(a)(2), 8123(d), 8135(a)(1) and 8135 (b); and

(2) any person who commenced receiving a survivor annuity on or after September 1, 1972, but prior to July 1, 1984, and entitled to benefits under this Chapter shall have that person's basic annuity recomputed to reflect a one time One Hundred Dollar ($100.00) increase to that person's basic survivor annuity.

(d) Additions to Recomputed Survivor Annuities. The recomputed survivor annuity set forth in Subsection (c) shall be subject to any of the following applicable non cumulative additions:

(1) Any survivor annuitant who commenced receiving a survivor annuity prior to October 1, 1995, shall receive, during the fiscal years commencing on October 1, 2002, and ending on February 28, 2003, an additional Four Thousand Two Hundred Thirty-Eight Dollars ($4,238.00) to replace the amount known as the sum of the One Thousand Two Hundred Dollar ($1,200.00), One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts.

(2) Any survivor annuitant who commenced receiving a survivor annuity prior to October 1, 1999, and is entitled to benefits under this Chapter, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred

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Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(3) Any survivor annuitant who commenced receiving a survivor annuity on or after October 1, 1999, but prior to January 1, 2000 and entitled to benefits under this Chapter, shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(4) Any survivor annuitant who commenced receiving a survivor annuity on or after January 1, 2000, but prior to October 1, 2000, and who is entitled to benefits under this Chapter shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(5) the prospective payment of supplemental benefits for the period March 1, 2003, through September 30, 2003, for survivors of those employees who retired prior to October 1, 1995, to be paid in the following manner:

(A) Two Thousand Four Hundred Seventy Two ($2,472.00) in Class 1 Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars ($1,200.00), One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual benefits formerly contained in various General Appropriation Acts, for survivors of those employees who retired as of October 1, 1977.

(B) One Thousand Seven Hundred Seventy-Two ($1,772.00) in prospective Class 2 Retiree Supplemental Annuity Benefits comprised of the sum of One Thousand Five Hundred Dollars ($1,500.00), Seven Hundred Dollars ($700.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for survivors of those employees who retired between October 2, 1977, and October 1, 1980.

(C) One Thousand Three Hundred Sixty-Four Dollars ($1,364.00) in Class 3 Retiree Supplemental Annuity Benefits, comprised of the sum of One Thousand Five Hundred Dollars ($1,500.00), and Eight Hundred Thirty-Eight Dollars ($838.00) in annual annuity benefits formerly contained in various General Appropriation Acts, for survivors of those employees who retired between October 2, 1980 and October 1, 1982.

(D) Eight Hundred Seventy Five Dollars ($875.00) in Class 4 Retiree Supplemental Annuity Benefits, composed of the sum of One Thousand Five Hundred Dollars ($1,500.00) in annual annuity benefits, formerly contained in various General Appropriation Acts, for survivors of those employees who retired between October 2, 1982, and October 1, 1995.

(E) No persons eligible for Class 1, 2, 3 or 4 Retiree Supplemental Annuity Benefits provided for in paragraph (5) of this Section shall receive such benefit if their regular annual retirement annuity prior to the supplemental amounts herein is more than Forty Thousand Dollars ($40,000.00). Persons eligible for Class 1, 2, 3, or 4 Retiree Supplemental Annuity Benefits shall only receive an amount of such benefits up to the total aggregate sum of Forty Thousand Dollars ($40,000.00) in combined retirement annuities and supplemental retirement annuities and not more.

(6) the prospective payment of supplemental benefits for the period of October 1, 2026, through September 30, 2027 for Fiscal Year 2027 for survivors of those employees who retired prior to October 1, 1995, to be paid in the following manner:

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(A) Four Thousand Two Hundred Thirty-eight Dollars ($4,238) in Retiree Supplemental Annuity Benefits, known as the sum of One Thousand Two Hundred Dollars ($1,200), One Thousand Five Hundred Dollars ($1,500), Seven Hundred Dollars ($700), and Eight Hundred Thirty-eight Dollars ($838) in annual benefits formerly contained in various General Appropriation Acts.

(B) No person eligible for Retiree Supplemental Annuity Benefits provided for in this Section shall receive such benefits if her/his regular annual retirement annuity, exclusive of the supplemental amounts authorized hereby, exceeds Forty Thousand Dollars ($40,000). No persons eligible for Retiree Supplemental Annuity Benefits shall receive more than the sum of Forty Thousand Dollars ($40,000) in combined retirement annuities and supplemental retirement annuities.

(C) Any retiree or survivor eligible to receive the supplemental annuity may waive their supplemental annuity payment authorized herein by the filing of a notarized affidavit waiving such payment with the Retirement Fund.

(e) Additions to Minor Child Annuities.

(1) Minor surviving children of a member, retirement annuitant or disability retirement annuitant, who commenced receiving minor child annuities provided under § 8135(a)(2) prior to October 1, 1999, and have no surviving parent, shall receive, during the fiscal years commencing on October 1, 1999 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), which shall be payable to their guardian for the collective benefit of all surviving minor children entitled to receive benefits under this Chapter, in order to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(2) Minor surviving children of a member, retirement annuitant, or disability retirement annuitant, who commenced receiving minor child annuities provided under § 8135(a)(2) on or after October 1, 1999, but prior to January 1, 2000, and have no surviving parent, shall receive, during the fiscal year commencing on October 1, 2000 and ending on September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), which shall be payable to their guardian for the collective benefit of all surviving minor children entitled to receive benefits under this Chapter, in order to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

(3) Any minor surviving children of a member, retirement annuitant or disability retirement annuitant, who commenced receiving minor child annuities provided under § 8135 (a)(2) on or after January 1, 2000, but prior to October 1, 2000, and have no surviving parent, shall receive, during the fiscal year commencing on October 1, 2000 and ending September 30, 2001, an additional One Thousand One Hundred Dollars ($1,100.00), which shall be payable to their guardian for the collective benefit of all surviving minor children entitled to receive benefits under this Chapter, in order to replace the annual cost of living increase formerly contained in various General Appropriation Acts.

SOURCE: GC § 4217.1, as added by P.L. 11-171:6 (Sept. 11, 1972); amended by P.L. 12-180 (Oct. 12, 1974). Subsection (b) amended by P.L. 17-066:3 (Sept. 7, 1984) and P.L. 17-082:6 (Dec. 21, 1984). Subsection (a)(2) amended by P.L. 18-005:25 (May 28, 1985). Subsection (a)(1) amended by P.L. 19-019:62 (Aug. 22, 1988). Entire provision amended by P.L. 24-044:2 (June 20, 1997) and P.L. 25-072:IV;9 (Sept. 30, 1999). Subsections (d)(4) and (e)(3) added by P.L. 25-174:4- 5 (Nov. 28, 2000) to correct for miscalculations and omissions. Subsection (d)(1) amended and (d)(5) added by P.L. 26-036:31-32 (Oct. 1, 2001). Subsections (d)(1) and (5) amended by P.L. 27-005:IV:24, 26 (Feb. 28, 2003). Subsection (d)(6) added by P.L. 27-029:IV:16 (Sept. 19, 2003); repealed and reenacted by P.L. 27-106:IV:16 (Sept. 30, 2004); amended by P.L. 28-068:III:10 (Sept. 30, 2005), P.L. 28-150:IV:II:2 (Sept. 30, 2006), P.L. 29-019:V:II:2 (Sept. 29, 2007), P.L. 29-113:V:II:2 (Sept. 30, 2008), P.L. 30-055:XI:3 (Sept. 4, 2009), P.L. 30-196:XI:3 (Sept. 1, 2010), P.L. 31-077:XI (Sept. 20, 2011), P.L. 31-233:XI:4 (Sept. 7, 2012), P.L. 32-068:XI:4 (Sept. 11, 2013), P.L. 32-181:XI:2 (Sept. 5, 2014), P.L. 33-066:XI:2 (Sept. 5, 2015), P.L. 33-185:XI:2 (Sept. 10, 2016), P.L. 34-042:XI:2

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(Sept. 16, 2017), P.L. 34-116:XI:2 (Aug. 24, 2018), P.L. 35-036:XI:2 (Sept. 4, 2019), P.L. 35-099:XI:2 (Sept. 15, 2020), P.L. 36-054:XI:2 (Sept. 11, 2021), P.L. 36-107:XI:2 (Sept. 12, 2022), P.L. 37-042:XI:2 (Sep. 11, 2023), and P.L. 37-125:XI:2 (Sept. 11, 2024), P.L. 38-060:XI:2 (Sept. 29, 2025), and P.L. 38-136:XI:2 (Aug. 28, 2026).

2026 NOTE: Former title "Same" replaced by the Compiler with "Survivor Annuities and Death Benefits" for clarity.

2025 NOTE: Because P.L. 26-036:31-32 (Oct. 1, 2001) had already added a new subsection (d)(5), the language in P.L. 27-005:IV:24, 26 (Feb. 28, 2003) to "Add a new item (5) of 4 GCA § 8135" is treated as an amendment. The Compiler has corrected a manifest error in past publications of the GCA, regarding an incorrect date.

2014 NOTE: Subsection designations in subsection (d) were altered to conform with the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 8136. Contributions to Fund.

(a) Base Pay. Each member of the Fund shall contribute the following:

(1) Six percent (6%) of salary earned and accruing to such member from the operative date to July 1, 1973;

(2) Six and one-half percent (6.5%) of salary earned and accruing to such member subsequent to July 1, 1973;

(3) Seven and one-half percent (7.5%) of the base pay earned and accruing to such member subsequent to October 1, 1981;

(4) Eight and one-half percent (8.5%) of the base pay earned and accruing to such member to be effective on the first full pay period after the date of enactment of this Section, which enactment date is subsequent to October 1, 1992;

(5) Nine and one-half percent (9.5%) of the base pay earned and accruing to such member subsequent to October 1, 1993.

(b) These contributions shall be made as a deduction from salary, notwithstanding that the salary paid in cash to such member may be reduced thereby below the established statutory rate. Every employee who is a member of the Fund shall be deemed to consent and agree to the deduction from salary as herein provided, and shall receipt for his full salary, and payment to such employee of salary less such deductions shall constitute a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such employee during the period covered by such payment, except as to the benefits herein provided.

(c) The annual salary of a member shall include:

(1) the base pay of the member for which he/she contributed to the Fund as required in § 8136(a) of this Chapter; and

(2) the non-base pay of the member for which he/she contributed to the Fund pursuant to his/her election made prior to March 29, 1993, in accordance with P.L. No. 19-010:XI:10, P.L. No. 20-4:3, and P.L. No. 22-006:7.

SOURCE: GC § 4218; repealed and reenacted by P.L. 11-171:7 (Sept. 11, 1972); subsections (a)(3) and (a)(4) added by P.L. 16-009:3 (May 4, 1981). Amended by P.L. 19-001:7 (Jan. 29, 1987), resulting in implicit repeal of (b). Amended by P.L. 19-003:10 (Apr. 24, 1987). Subsection (a)(4) repealed and reenacted by P.L. 19-010:XI:13(a) (Nov. 14, 1987), P.L. 19-019:23 (Aug. 22, 1988), P.L. 20-004:3 (Apr. 10, 1989). Subsection (a) amended by P.L. 22-006:6 (Mar. 29, 1993). Subsection (c) repealed and reenacted by P.L. 24-315:6 (Dec. 23, 1998).

2025 NOTE: The Compiler has corrected a manifest error in past publications of the GCA, regarding an incorrect date.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Lowercase Roman numerals" to "Numbers" in subsection (c).

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NOTE: P.L. 19-003:10 (Apr. 24, 1987) contained the following uncodified language:

> The amendment made to Item (4) of Subsection (a) of 4 GCA § 8136 in Public Law 19-1 shall be effective October 1, 1986 provided that the government of Guam or the employer involved shall pay its regular proportionate contribution on such amount at the same rate as may be in effect for regular wages.
>
> The amendment made in this Section adding Subsections (b) and (c) to 4 GCA § 8136, which were inadvertently repealed in Section 7 of Public Law 19-1, is effective January 28, 1987.

P.L. 19-010:XI:13(b) (Nov. 14, 1987) contained the following uncodified language:

> (b) All current employees of the government of Guam shall have one hundred eighty (180) days to decide whether to exercise such option, and shall thereafter be deemed to waive the option. In order to exercise such option, all current members shall pay into the fund payment for all such sums received during the course of their employment with the government of Guam."

P.L. 20-004:4 (Apr. 10, 1989) contained the following uncodified language:

> Notwithstanding any other law or regulation, members and prior members who paid or executed promissory notes for repayment of withdrawn contributions or for educational or military credit or for non-base pay contributions shall have the interest on their repayment recalculated anew at regular interest and shall have payments reduced or the repayment period shortened accordingly.

P.L. 22-006:7 (Mar. 28, 1993) contained the following language:

> Section 6 of this Act denies the right of any new member of the Retirement Fund to make contributions on account of their non-base pay. All members of the Fund who have previously elected to make such contributions may continue to do so except that the contribution rate shall be eight and one-half percent (8½%) for the period following enactment of this Act to the first full pay period, nine and one half percent (9½%) for the period from the beginning of such first full pay period through September 30, 1993, and ten and one half percent (10½%) thereafter.

§ 8137. Contribution by the Government.

The Government shall make contributions to the Fund each year on an actuarial funded basis, toward the annuities and benefits herein provided. These contributions shall be equal to the sum of the following:

(a) Government Normal Cost. An annual amount resulting from the application of a rate percent of total salaries of all members representing the present value of the actuarial reserve requirement for membership service, for such year, for service retirement annuity, disability retirement annuity, and annuities to widows and children, and the one-year term premium for the Government's liability for death benefits, after taking credit for the contributions.

(1) From July 1, 1955 to August 30, 1972, the rate of contributions shall be seven and two hundred eighty-seven thousandths percent (7.287%) of the total salaries of the members participating in the Fund.

(2) From September 1, 1972, the rate of contribution shall be seven and six hundred ninety-seven thousandths percent (7.697%) of the total salaries of the members participating in the Fund.

(3) From July 1, 1976, the rate of contribution shall be eight and six hundred ninety-seven thousandths percent (8.697%) of the total salaries of the members participating in the Fund.

(4) From October 1, 1981, the rate of contribution shall be ten and six hundred ninety-nine thousandths percent (10.699%) of the total base pay of the members participating in the Fund and ten and six hundred ninety-nine thousandths percent (10.699%) of the pay for which members opted to contribute eight and one-half percent (8.5%) as provided in Section 7 of this Act.

(5) From the beginning of the first full pay period following the beginning of the 1992 fiscal year, the rate of contribution shall be six and ten-thousandths percent (6.010%) with respect to

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both pay and non-base pay for which members opted to contribute as provided in Section 7 of this Act.

(6) From October 1, 1993, the rate of contribution with respect to both base pay and the pay for which members opted to contribute as provided in Section 7 of this Act shall be equal to the Government Normal Cost rate percent determined in the latest completed actuarial valuation prepared for the Board of Trustees by the actuary appointed by the Board.

(b) Government Unfunded, Liability Amortization Cost.

(1) An amount resulting from the application of a rate percent, not less than zero, of total salaries of all members, which will amortize the remaining unfunded liability for prior service as of September 30, 2024, and for any changes thereto calculated as of each subsequent September 30th thereafter, over one or more amortization periods, each period not to exceed fifteen (15) years from the September 30th upon which the applicable remaining unfunded liability is calculated.

(A) [Implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026).]

(B) [Implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026).]

(C) [Implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026).]

(D) [Implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026).]

(E) [Implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026).]

(F) [Implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026).]

(2) The amount of contributions by the Government shall be determined by applying the applicable percentage rate of contributions as hereinabove prescribed to the total salaries paid to the members during each payroll period, and all such amounts shall be paid into the Fund following the close of each payroll period, concurrently with the contributions made to the Fund by the members. For purposes of this Section, the term total salaries of members shall be interpreted to include Base Pay, as defined in 4 GCA § 8301(l), of members participating in the Government Defined Contribution System.

(c) An amount resulting from the application of a rate equal to average rate of return on the investment of retirement funds in the preceding fiscal year of total delinquent payments during the period when such payments are delinquent. In addition an amount equal to one percent (1%) per year of delinquent payments shall be paid over the Fund as penalty for late payment. As used in this Section, "delinquent payments" means payments due the Fund pursuant to 4 GCA § 8136 and Subsections (a) and (b) of this Section which are not paid over to the Fund within ten (10) working days after issuance of payroll checks.

(d) In addition to all other contributions made by the government to the Retirement Fund pursuant to this chapter, the government shall pay as an additional contribution to the Fund one percent (1%) of the total salaries of all members, effective October 1, 1988 through the last full pay period prior to enactment of this Section. These payments shall be first applied towards any unfunded liability of the Fund, if there be any.

(e) [No text]

(1) [No text]

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(A) From October 1, 2000, the Government rate of contribution for agencies receiving appropriations from I Liheslaturan Guåhan and for Federally funded programs shall equal 18.6%.

(B) From October 1, 2001, the government rate of contribution for agencies receiving appropriations from I Liheslaturan Guåhan and for Federally funded programs shall equal 85% of the sum of the contribution rates required under §§ 8137(a) and 8137(b) up to a maximum of 19.8016%.

(C) From October 1, 2002, the Government rate of contribution for agencies receiving appropriations from I Liheslaturan Guåhan and for Federally funded programs shall equal twenty-six percent (26.0%).

(D) From March 1, 2003, the Government rate of contribution for agencies receiving appropriations from I Liheslaturan Guåhan and for Federally funded programs shall equal eighteen percent (18%) and thereafter shall be one hundred percent (100%) of the sum of the contribution rates required under § 8137(a) and adopted by the Board pursuant to § 8137(b).

(2) [No text]

(A) From October 1, 2000, the government rate of contribution for autonomous agencies not receiving appropriations from I Liheslaturan Guåhan shall equal one hundred percent (100%) of the sum of the contribution rates required under §§ 8137(a) and 8137(b) up to a maximum of twenty-one percent (21%).

(B) From October 1, 2002, the government rate of contribution for autonomous agencies not receiving appropriations from I Liheslaturan Guåhan shall equal one hundred percent (100%) of the sum of the contribution rates required under §§ 8137(a) and 8137(b) up to a maximum of twenty-six percent (26%).

(C) From March 1, 2003, the government rate of contribution for autonomous agencies not receiving appropriations from I Liheslaturan Guåhan shall be eighteen percent (18%), and thereafter shall equal to one hundred percent (100%) of the sum of the contribution rates required under § 8137(a) and adopted by the Board pursuant to § 8137(b).

(f) The debt service relative to the Thirty Million Dollars ($30,000,000) for Fiscal Year 2002 for the supplemental annuity benefits; cost of living allowance; I Maga'hågan/Maga'låhen Guåhan and I Sigundo Maga'hågan/Maga'låhen Guåhan's pensions; retiree group health, dental and life insurance premiums; retiree life insurance subsidy; and Medicare premiums shall be paid from the 1.2016% increase in Employer Contributions for Fiscal Year 2002 over the FY2001 contribution rate of 18.6% for positions funded by Public Law Number 26-035, as amended by Public Law Numbers 26-036 and 26-047.

(g) [No text]

(1) For Fiscal Year 2002, separately, the Guam Power Authority, the Guam Telephone Authority, the Guam Waterworks Authority, the A. B. Won Pat International Airport Authority, the Guam Economic Development Authority, the Guam Housing Corporation, the Government of Guam Retirement Fund, the Port Authority of Guam, and the Guam Visitors Bureau shall remit to the Government of Guam Retirement Fund an amount equal to the number of employees which are retired from each entity multiplied by the amounts of:

(A) Four Thousand Two Hundred Thirty-eight Dollars ($4,238.00), known as the sum of the One Thousand Two Hundred Dollars ($1,200.00), One Thousand Five Hundred

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Dollars ($1,500.00), Seven Hundred Dollars ($700.00) and Eight Hundred Thirty-eight Dollars ($838.00) supplemental annuity benefits formerly contained in various General Appropriation Acts; and

(B) One Thousand One Hundred Dollars ($1,100.00), known as the latest cost of living adjustment.

(2) Each of the above listed entities shall also remit to the Government of Guam Retirement Fund the amounts necessary to defray the cost of Medicare premiums for Retirees of those agencies and their survivors who are eligible to receive social security income benefits and are required under the government of Guam group health insurance program to pay such premiums to continue to participate in such health insurance program, failing which they are excluded therefrom (to continue existing programs contained in the monthly payments).

(3) The remittances required herein shall be made in two (2) equal installments and shall be due on or before December 31st and March 31st, respectively. The Government of Guam Retirement Fund shall promulgate, continue and amend, if necessary, previous administrative procedures to ensure the proper submission, receipt and accounting of all sums remitted in conformance with this section.

(h) [No text]

(1) Board's Power to Enforce. The Board of the Government of Guam Employees' Retirement Fund may file in Superior Court a Petition for Writ of Mandate to compel any government official who is so obligated to pay or transfer money to the Retirement Fund for employee or employer contributions to the Fund.

(2) Remedies. At the court's discretion, failure to comply with a Writ of Mandate issued pursuant to this Section after notice and a hearing shall be subject to contempt of court proceedings.

(3) Costs and Attorney's Fee. If the Board's petition is granted, the court shall award costs and a reasonable attorney's fee, which shall be paid from funds of the official's agency.

(4) Dismissal after Payment. If payment of the delinquent amount is made within fifteen (15) days after filing the petition for Writ, the petition shall be dismissed.

SOURCE: GC § 4219, as amended by P.L. 11-171:8 (Sept. 11, 1972); subsection (a) amended by P.L. 16-009:4 (May 5, 1981). Codified by the Compiler as 4 GCA § 8137. Subsection (c) added by P.L. 17-053:25 (June 4, 1984). Subsection (b) amended by P.L. 17-066:10 (Sept. 7, 1984). Subsection (c) added by P.L. 19-019:58 (Aug. 22, 1988), renumbered (d) pursuant to 1 GCA § 1606. Entire section amended by P.L. 22-006:8 (Mar. 29, 1993). Subsection (b) amended by P.L. 23-042:2 (Sept. 29, 1995). Subsection (e) repealed and reenacted by P.L. 26-035:IV:8 (Sept. 28, 2001) and P.L. 26-036:23 (Oct. 1, 2001). Subsection (f) added by P.L. 26-036:24 (Oct. 1, 2001), amended by P.L. 26-049:1 (Oct. 12, 2001). Subsection (g) added by P.L. 26-049:2 (Oct. 12, 2001). Subsection (e) repealed and reenacted by P.L. 26-152:IV:2 (Sept. 29, 2002). Subsections (b), (e) amended by P.L. 27-005:IV:20-21 (Feb. 28, 2003). Subsection (h) added by P.L. 28-038:2 (June 2, 2005). Subsection (g) amended by P.L. 30-101:23 (Mar. 12, 2010). Subsection (b) amended by P.L. 33-186:9(a) (Sept. 14, 2016) effective Jan. 1, 2018 pursuant to P.L. 33-186:9(b). Subsection (b)(1) amended by P.L. 38-120:2 (Apr. 8, 2026).

2026 NOTE: Subsections (b)(1)(A)-(F) implicitly repealed by P.L. 38-120:2 (Apr. 8, 2026)

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered. In light of the privatization of the Guam Telephone Authority and the repeal of Title 12 GCA Chapter 7 by P.L. 27-110:6 (Nov. 1, 2004), the Guam Telephone Authority is no longer an autonomous agency or an instrumentality of the Government of Guam. The Compiler has corrected manifest errors in past publications of the GCA, including incorrect public law numbers and dates.

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2022 NOTE: Subsection (e) as codified herein specifies the Government's rate of contribution to the Government of Guam retirement fund for FY2001 to FY2003. The rate of contribution has been changed by subsequent legislation, but without amending subsection (e).

Past publications of the GCA included a Cross-Reference annotation of those session laws that amended the rate of contribution after FY2003, noting that "the Government's rate of contribution to the Government of Guam retirement fund shall increase yearly on an actual funded basis." This list has been reproduced and updated below:

P.L. 27-029:V:2 (Sept. 19, 2003); P.L. 27-106:VI:3 (Sept. 30, 2004); P.L. 28-068:IV:13(Sept. 30, 2005); P.L. 28-150:V:3 (Sept. 30, 2006); P.L. 29-019:VI:2 (Sept. 29, 2007); P.L. 29-113:VII:23 (Sept. 30, 2008); P.L. 30-055:XIII:3 (Sept. 4, 2009); P.L. 30-196:XIII:3 (Sept. 1, 2010); P.L. 31-074:I:4 (June 6, 2011); P.L. 31-077:XIII:3 (Sept. 20, 2011); P.L. 31-233:XIII:5 (Sept. 7, 2012); P.L. 32-068:XIII:3 (Sept. 11, 2013); P.L. 32-181:XIII:3 (Sept. 5, 2014); P.L. 33-066:XIII:3 (Sept. 5, 2015); P.L. 33-185:XIII:3 (Sept. 10, 2016); P.L. 34-042:XIII:3 (Sept. 16, 2017); P.L. 34-116:XIII:II:3 (Aug. 24, 2018); P.L. 35-036:XIII:3 (Sept. 4, 2019), P.L. 35-099:XIII:3 (Sept. 15, 2020); P.L. 36-054:XIII:3 (Sept. 11, 2021); P.L. 36-107:XIII:II:3 (Sept. 12, 2022).

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

§ 8137.1. Annual Cost of Living Allowance.

[Repealed.]

SOURCE: Added by P.L. 19-019:57 (Aug. 22, 1988). Repealed by P.L. 23-045:IV:7 (Oct. 18, 1995).

§ 8137.2. Employees on Active Duty.

The government shall pay the employer's and employee's shares for Retirement Fund contributions, group health insurance premiums, and group life insurance premiums for all officers and other employees of the government of Guam who are on leave without pay and on active duty with the Guam National Guard or the reserve components of any of the Armed Services of the United States. All agencies and departments of the government of Guam shall fund, from their respective annual budgets, the contributions for retirement, health insurance, and life insurance authorized by this section. The provisions of this section shall be retroactive to August 2, 1990.

SOURCE: Added by P.L. 21-001:10 (Feb. 28, 1991).

§ 8137.3. Prohibition on Double Computation of Cost of Living Adjustments for Retirees.

Notwithstanding any other provision of law enacted prior to or subsequent to this Section, cost of living adjustments for members who retire after September 30, 1995 shall be computed by the Government of Guam Retirement Fund and retirement benefit supplements which may be given above the basic annuity shall not include sums which have already been included in the salaries upon which the basic annuity is calculated. The COLA payments contained in various General Appropriation Acts and previously applied to employees salaries and again, in a double computation, applied as retirees' cost of living adjustments, known as the One Thousand Two Hundred Dollar ($1,200), One Thousand Five Hundred Dollar ($1,500), Seven Hundred Dollar ($700), and Eight Hundred Thirty-Eight Dollar ($838) annuity benefits, shall not be applied to cost of living adjustments for retirees.

SOURCE: Added by P.L. 23-045:IV:6 (Oct. 18, 1995).

§ 8137.4. Increment(s) to Be Included in Calculating Retirement Annuity.

Any government of Guam Employee who elects to apply for retirement shall be authorized to add in the increment(s) which such employee would have received if the freeze mandated by Public Law 23-014 had not been in effect. For purposes of this section, the government of Guam Salary and Increment Schedule shall be the basis for determining the amount of the increment(s) to be used for computation. The employee shall pay to the Retirement Fund the employer's and employee's contribution on the salary increment.

SOURCE: Added by P.L. 23-128:IV:3 (Dec. 12, 1996).

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§ 8138. Board of Trustees.

(a) The general administration and the responsibility for the proper operation of the Fund, and for making effective the provisions of this Article, shall be vested in a Board of Trustees.

(b) Upon the election and appointment of additional trustees, the Board of Trustees shall consist of seven (7) members as follows:

(1) Elected Retirees: Two (2) retirees who are domiciled in Guam and are currently in receipt of a retirement annuity from either the Defined Benefit Plan or the Defined Contribution Retirement System, to be elected only by retirees of the Defined Benefit Plan or the Defined Contribution Retirement System. Retirees who are employed by, or under contract with, the government of Guam shall, regardless of their employment status, remain eligible to vote for Elected Retirees and/or to serve as Elected Retirees on the Board of Trustees.

(2) Elected Active Members: Two (2) members of either the Defined Benefit Plan or the Defined Contribution Retirement System (A) who are employed and have been employed for at least five (5) years by the government of Guam; and (B) who are contributing to either the Defined Benefit Plan in accordance with § 8136 of this Article or to the Defined Contribution Retirement System in accordance with § 8208 of this Chapter, to be elected by members of the Defined Benefit Plan and participants in the Defined Contribution Retirement System.

(3) Appointed Residents: Three (3) persons who are domiciled in Guam, two (2) of whom are not employed by the government of Guam, and one (1) of whom shall be a government employee in the classified service, all with demonstrated financial ability and broad business management or investment experience, ideally in investment or management of pension funds, to be appointed by I Maga'hågan/Maga'låhen Guåhan with the advice and consent of I Liheslaturan Guåhan.

(4) Elected Officials and Retirement Fund Employees Disqualified. Any person holding an elected office and any employee of the Retirement Fund shall be disqualified from serving on the Board of Trustees.

SOURCE: GC § 4220, as amended by P.L. 14-154:10 (Dec. 18, 1978). Repealed and reenacted by P.L. 26-131:2 (Sept. 17, 2002). Subsection (b) amended by P.L. 27-005:IV:22 (Feb. 28, 2003). Entire section amended by P.L. 27-043:2 (Nov. 14, 2003) to provide for elected members. Subsection (b)(4) amended by P.L. 27-104:4 (June 30, 2004).

§ 8138.1. Classification of Offices; Transition; Initial and Subsequent Elections and Appointments.

(a) Classification of Offices. The Board of Trustees shall transition into a seven (7) member board as described in § 8138, consisting of two (2) Elected Retirees, two (2) Elected Active Members, two (2) Appointed Residents who are not employed by nor retired from the government, and one (1) Appointed Resident who is in the classified service. To realize that intent, those seven (7) offices shall be classified by identifying each office with a number, with Office 1 and Office 2 held by those who are Elected Retirees, and Office 3 and Office 4 held by those who are Elected Active Members. Offices 5, 6, and 7 shall be held by those appointed by I Maga'hågan/Maga'låhen Guåhan with the advice and consent of I Liheslaturan Guåhan with Offices 5 and 6 held by Appointed Residents who are not employed by nor retired from the government of Guam. Office 7 shall be held by an Appointed Resident who shall be a government of Guam employee in the classified service.

(b) Transition. Incumbent Trustees shall continue to serve on the Board of Trustees, except that they will be deemed to have resigned upon the oath of office taken by two (2) Elected Retirees and two (2) Elected Active Members who are elected in the initial election to fill Offices 1 through 4.

(c) Elections and Appointments. An initial election and all subsequent elections to fill Offices 1 through 4 shall be conducted on a Saturday that is not a legal holiday, except that the election shall not be

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held within sixty (60) days prior to a Primary or General Election, or between a Primary and General Election, in which case the Board of Trustees' election shall be held at least thirty (30) but no more than sixty (60) days following a General Election.

(1) The initial election shall be held between February 1, 2004, and March 1, 2004.

(2) Board of Trustees elections shall be conducted by the Guam Election Commission and shall be funded by the Retirement Fund to fill Offices 1 through 4 in the following manner:

(A) Offices 1 and 2 shall be filled only by Elected Retirees.

(B) Offices 3 and 4 shall be filled only by Elected Active Members.

(3) All appointments for Offices 5 through 7 shall be made by I Maga'hågan/Maga'låhen Guåhan with the advice and consent of I Liheslaturan Guåhan.

(A) Offices 5 and 6 shall be filled only by Appointed Residents who are not employed by the government of Guam.

(B) Office 7 shall be filled only by an Appointed Resident who shall be a government of Guam employee in the classified service.

SOURCE: Added by P.L. 27-043:3 (Nov. 14, 2003).

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

§ 8138.2. Oath; Term of Office; Compensation.

(a) Each Trustee, within ten (10) days after being duly appointed or elected and having received a certificate of election, shall take an oath of office that the Trustee will diligently and honestly administer the affairs of the Board of Trustees, and that the Trustee will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the Fund. The oath shall be subscribed to by the member making it and shall be administered and certified by the Chief Justice of the Supreme Court of Guam.

(b) The term of office of a Trustee elected or duly appointed shall be five (5) years from the date the Trustee first takes the oath of office following such election or appointment.

(c) Notwithstanding the expiration of the terms of office, each Trustee shall continue to serve until that Trustee's successor is elected or duly appointed, as the case may be, and the successor has taken the oath of office. Upon the successor's oath of office, the predecessor to that office shall be deemed to have resigned.

(d) The Trustee shall be compensated in accordance with 5 GCA § 43104, as amended.

SOURCE: Added by P.L. 26-043:4 (Oct. 5, 2001).

§ 8138.3. Quorum; Voting.

(a) Four (4) or more board members physically in attendance shall constitute a quorum for all meetings of the Board of Trustees. Each Trustee shall be entitled to one (1) vote as a member of the Board of Trustees. Four (4) affirmative votes taken at a meeting of the Board of Trustees at which a quorum is present shall be considered valid acts of the Board of Trustees.

(b) Provided that a quorum is present at a Board meeting, members of the Board or any committee designated by the Board who are not physically present at a meeting of the Board may participate in a meeting of the Board, or of the committee, as the case may be, by means of conference by telephone or similar communications equipment which provides all persons participating in the meeting with the ability

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to hear one another and speak and discuss. However, a vote by a Board member shall not be valid unless the Board member is physically present at the meeting.

SOURCE: Added by P.L. 27-043:5 (Nov. 14, 2003).

§ 8138.4. Resignation; Vacancies; Disqualification.

(a) No Courtesy Resignations. After a gubernatorial election in which there is a change of administration of the government of Guam, courtesy resignations by Trustees elected to the Board of Trustees shall not be requested nor expected by the new administration.

(b) Vacancies.

(1) If there ever shall be a vacancy before the end of the term in any of the Offices 1 through 4, then the balance of the unexpired term of those offices shall be filled by the candidate(s) who received the next highest number of votes in the election in which the vacating Trustee was elected.

(2) Should there be no eligible and willing candidate(s) to fill any vacancies in Offices 1 through 4, then the Board of Trustees, through a majority vote, shall select an "Interim Member" to serve.

(A) The Interim Member must meet all required qualifications for the specific Office to which they are appointed.

(B) Interim Members have the same rights and voting privileges as elected and appointed members with the exception of their term of service.

(i) If the length of the term remaining for the specific vacated Office is one (1) calendar year or less from the date of the vacancy, then the Interim Member shall serve until the end of the term.

(ii) If the length of the term remaining for the specific vacated Office is greater than one (1) calendar year, then the Guam Election Commission shall conduct an election to fill the vacancy or vacancies in accordance with the provisions of this Article. In such case, the Interim Member shall serve until a Trustee is selected and certified through the election process, at which point the Interim Member is considered to have resigned.

(c) Disqualification Upon Change in Status. If the status of a Trustee changes after election, or after appointment and confirmation by I Liheslaturan Guåhan (e.g., an Elected Retiree or Elected Active Member or Appointed Resident no longer qualifies as such), then that change in status shall disqualify the Trustee from remaining in his or her respective office for the remainder of that term of office, and the Trustee shall be deemed to have resigned thirty (30) days following the event triggering the disqualification. Said disqualification shall not be the sole cause for invalidating actions taken prior to the deemed resignation date. The vacancy created by such deemed resignation shall be filled as described in (b), above.

(d) Convicted Persons Disqualified. A person convicted of a felony or a crime of moral turpitude shall be ineligible for appointment or election to, and shall be disqualified from service on, the Board of Trustees. Conviction of a felony or a crime of moral turpitude while in office shall be deemed automatically to constitute immediate resignation as a Trustee, without the need for any action by the Board of Trustees to effect that resignation.

SOURCE: Added by P.L. 27-043:6 (Nov. 14, 2003).

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

§ 8138.5. Rules and Regulations.

The Board of Trustees is authorized to establish rules and regulations to implement the provisions of 4 GCA §§ 8138 through 8138.4.

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SOURCE: Added by P.L. 27-043:7 (Nov. 14, 2003).

§ 8139. Rules and Regulations: Duties.

The Board of Trustees shall have, in addition to other duties arising out of this Chapter, the following duties:

(a) establish and maintain an office in the facilities provided by the Government for the meetings of the Board and the keeping of the books, accounts and records of the Fund; hold regular meetings bi-monthly and such special meetings as may be deemed necessary; and keep a full record of all of its proceedings, which shall be open to inspection by the public.

(b) Provide for the installation of a system of accounts and records which will give full effect to the requirements of this Chapter; adopt all necessary actuarial tables to be used in the operation of the fund; and provide for the compilation of such statistical and financial data as may be required for actuarial valuations, period surveys and calculations.

(c) Obtain such information from the participating members and the Government as shall be necessary for the proper operation of the Fund.

(d) Consider and pass upon all applications for annuities, benefits refunds and other payments and authorize the expenditures for such purposes, in accordance with the provisions hereof.

(e) Accept any gift, grant or bequest of any money or property of any kind, for the purposes designated by the granter if such purposes are specified as providing cash benefits to some or all of the members or annuitants of the Fund; if no such purposes are designated, the same shall be credited to the account representing income from investments.

(f) Have the accounts of the Fund audited as of the end of each fiscal year by a competent accountant and submit an annual report to the Government as soon as possible following the close of the year embodying, among other things, a balance sheet showing the financial and actuarial condition of the Fund, a statement of income and expenditures for the year, a statement showing changes in the asset, liability and reserve accounts during the year, a statement of investments owned by the Fund, detailed statements of investments acquired and disposed of during the year, including the description of each security, purchase or sale price and names of vendors and vendees, and such other financial or statistical data as are necessary for a proper interpretation of the condition of the Fund and the results of its operation. The Board shall also cause to be published for distribution among the members a synopsis of such report.

SOURCE: GC § 4221.

2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Numbers" to "Lowercase Letters" in this section.

2026 NOTE: Former title "Same" replaced by the Compiler with "Rules and Regulations" for clarity.

§ 8139.1. Fiduciary Duties.

(a) The members of the Board of Trustees stand in a fiduciary relationship to the beneficiaries of the Retirement Fund in regard to the management of the Fund.

(b) The members of the Board of Trustees shall discharge their duties with respect to management of the Retirement Fund:

(1) solely in the interest of the members and beneficiaries of the Fund, and for the exclusive purpose of providing benefits to members and beneficiaries and defraying reasonable expenses of administering the Fund;

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(2) with the care, skill, and prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(3) by diversifying the investments of the Fund so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(4) in accordance with the documents and instruments governing the Fund.

(c) Unless otherwise provided in this Chapter, investment and management decisions respecting individual assets shall be evaluated not in isolation, but in the context of the Fund's portfolio as a whole, and as a part of an overall investment strategy having risk and return objectives reasonably suited to the Fund.

(d) A Trustee's decision or action in discharging his or her fiduciary duties shall be reviewed in light of the facts and circumstances existing at the time of such decision or action, and not by hindsight.

SOURCE: Added by P.L. 18-005:1 (May 28, 1985). Repealed by P.L. 26-035:IV:15 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:3 (Nov. 27, 2013).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8139.2. Penalty for Violation of Fiduciary Duty.

Any member of the Board of Trustees who violates the provision of § 8139.1 and § 8143(j) of this Chapter shall be removed from the position of trustee of the retirement fund by I Maga'håga/Maga'låhi and shall be personally liable to the retirement fund to the extent of the losses incurred by the fund. The Attorney General of Guam shall enforce the provisions of this Section to hold such members personally liable.

SOURCE: Added by P.L. 18-005:4 (May 28, 1985). Repealed by P.L. 26-035:IV:15 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: Reference to the "Governor" replaced with I Maga'håga/Maga'låhi pursuant to 5 GCA § 1510. The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8139.3. Indemnification.

The government of Guam shall indemnify and hold harmless any Trustee, Director, officer, staff person, or former Trustee, Director, officer or staff person who may have served as a Trustee, Director or officer of the Fund, in whole or in part, for any liability, loss, damage, costs and expenses arising out of payment of funds pursuant to this Act for FY2002 supplemental annuity benefits; cost of living allowance; I Maga'hågan/Maga'låhen Guåhan and I Sigundo Maga'hågan/Maga'låhen Guåhan's pensions; retiree group health, dental and life insurance premiums; retiree life insurance subsidy; and Medicare premiums, except in relation to matters as to which the person is adjudged to be liable for criminal misconduct in the performance of duty to the Fund.

SOURCE: Added as uncodified law by P.L. 26-036:34 (Oct. 1, 2001), amended by P.L. 26-049:6 (Oct. 12, 2001). Codified to this provision by the Compiler.

§ 8140. Director of Fund.

(a) The Board shall appoint the Director of the Fund, who shall be its Chief Executive Officer.

(1) The Director of the Fund shall serve at the pleasure of the Board, which shall fix his annual base salary at a minimum of Eighty Thousand Five Hundred Eighty Dollars ($80,580) and a maximum not to exceed the base salary assigned for I Maga'hågan/Maga'låhen Guåhan.

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(2) The Director of the Fund shall be responsible for the planning, organizing, and administering the operations of a multi-billion dollar pension system under the laws, policies and programs as established by acts of I Liheslaturan Guåhan and under the policy guidance and direction of the Board of Trustees, and shall perform such other and additional duties as the Board may require.

(b) The Director of the Fund shall have the necessary knowledge, skills, and abilities to include:

(1) thorough knowledge of the general principles of management and supervision, particularly as they apply to public administration;

(2) considerable knowledge of the general principles of fiscal management, including knowledge of auditing and accounting requirements;

(3) considerable knowledge of actuarial, insurance, and investment principles and practices;

(4) considerable knowledge of pension system, both Federal and Local Systems;

(5) ability to plan, organize and direct the works of others;

(6) demonstrated oral and written communication skills;

(7) ability to analyze, interpret and clearly covey to others, complex financial, statistical, actuarial and other technical information, and to take action or to make recommendations on such data;

(8) ability to establish and maintain positive communication and effective working relationships with administrative officials, legislators, consultants, Board Trustees, system employees, both active, inactive and retired members of the Fund, public employee organizations and the general public;

(9) a Bachelor's degree in Business Administration, Finance, Accounting, Economics, Public Administration, or closely-related area; and at least seven (7) years of diverse management experience in the administration of a public or private pension system; or a Master's Degree in Business Administration, Finance, Accounting, Economics, Public Administration, or closely-related field, and at least five (5) years of diverse management experience in the administration of a public or private pension system.

SOURCE: GC § 4222; amended by P.L. 14-154:11 (Dec. 18, 1978), P.L. 18-005:2 (May 28, 1985) and P.L. 28-068:IV:72 (Sept. 30, 2005).

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

§ 8140.1. Deputy Director of Fund.

The Director of the Fund may employ, with the consent of the Board, a Deputy Director with an annual base salary of a minimum of Sixty-six Thousand Three Hundred Sixty-four ($66,364) and a maximum not to exceed the base salary assigned for I Sigundo Maga'hågan/Maga'låhen Guåhan. The Deputy Director shall serve at the pleasure of the Director and the Board, and his duties shall be determined by the Director.

SOURCE: Added by P.L. 28-068:IV:73 (Sept. 30, 2005).

2025 NOTE: Reference to the "Lieutenant Governor of Guam" replaced with I Sigundo Maga'hågan/Maga'låhen Guåhan pursuant to 5 GCA § 1510.

§ 8140.2. Duties of the Director Regarding COLA Awards.

The Director of the Fund is authorized to assist the Director of Administration and the Treasurer of Guam in the administration of COLA AWARD payments in connection with Superior Court Case No. SP0206-93.

SOURCE: Added by P.L. 28-151:5 (Oct. 31, 2006). Amended by P.L. 29-004:11 (Sept. 6, 2007).

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NOTE: This section was added by P.L. 28-151 in relation to the authorization of the Governor to make COLA payments pursuant to *Rios v. Camacho*, Superior Court Case No. SP0206-93 (Decision and Order, Oct. 5, 2006). Pursuant to P.L. 28-151, this section "shall be repealed and cease to be of any further force and effect upon the Superior Court's determination in SP0206-93 that all COLA awards have been paid over."

§ 8140.3. Assistance for COLA Awardees.

[Repealed.]

SOURCE: Added by P.L. 28-151:6 (Oct. 31, 2006). Repealed by P.L. 29-004:12 (Sept. 6, 2007).

NOTE: This section was added by P.L. 28-151 in relation to the authorization of the Governor to make COLA payments pursuant to *Rios v. Camacho*, Superior Court Case No. SP0206-93. Pursuant to P.L. 28-151, this section "shall be repealed and cease to be of any further force and effect upon the Superior Court's determination in SP0206-93 that all COLA awards have been paid over." Notwithstanding the language in P.L. 28-151, this section was expressly repealed by P.L. 29-004:12 (Sept. 6, 2007).

§ 8141. Employees of Fund.

(a) The Director may employ such clerical, medical or other assistance as shall be necessary for the proper administration of the fund.

(1) The Director may also engage actuarial or other professional service to assist in the preparation of the annual reports, to advise in matters of policy and to make the periodic actuarial surveys.

(2) The costs and expenses of the administration of the fund including any audit fees incurred in connection with the financial operation of the fund shall be paid out of said fund, provided that any payments related to the management of the investment account such as investment counseling service and custodial fees shall be a direct charge to Investment Income.

(3) At least once every five (5) years an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of rates of mortality, disability, retirement, separation and other essential factors relating to the operations of the fund.

(A) Such survey shall also provide for a verification or redetermination of the rates of contributions by the Government.

(B) The cost of such survey shall be paid from the fund.

(b) The Board of Trustees may employ an attorney to assist and represent it in all civil matters, including civil litigation matters, which concerns the Board. The Board of Trustees may set the terms and conditions of employment for the attorney and his compensation.

(c) The position of Controller is established within the Government of Guam Retirement Fund. The Controller shall be a Certified Public Accountant. The Controller shall report directly to the Government of Guam Retirement Fund Director. The Retirement Fund Director shall hire the Controller by direct employment as an unclassified employee of the government of Guam, or by personal services contract, as is deemed necessary by the Retirement Fund Director and approved by the Government of Guam Retirement Fund Board of Trustees to attract and retain a qualified Controller, notwithstanding the provisions of 4 GCA. § 6206.1.

SOURCE: GC § 4223, as amended by P.L. 13-199:10 (Nov. 11, 1976) and P.L. 17-028:9 (Nov. 10, 1983). Repealed by P.L. 26-035:IV:16 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Subsection (c) added by P.L. 26-084:11 (May 15, 2002). Subsection (b) amended by P.L. 28-189:2 (Jan. 29, 2007).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2018 NOTE: Subsection designations added in subsection (a) pursuant to authority granted by 1 GCA § 1606.

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§ 8142. Rules and Regulations.

The Board shall establish rules and regulations to implement the provisions of this Chapter which shall not be inconsistent herewith.

SOURCE: GC § 4224.

§ 8142.1. Cost of Living Allowance in Connection with Superior Court Case No. SP0206-93; Priority of Payments.

The Director of the Fund shall notify the Treasurer of Guam to pay COLA Awards to the following persons in the priority stated herein. The notification shall be based on information available to the Fund as of the date on which notice is delivered to the Treasurer of Guam:

(a) The COLA Awardee.

(b) If the COLA Awardee is deceased, then the notification shall name the COLA Awardee's surviving spouse, but only if the surviving spouse is living on the date notice is delivered to the Treasurer of Guam.

(c) If the COLA Awardee's surviving spouse is deceased, the notification shall name the living beneficiary designated by the COLA Awardee in the Fund's Designation of Beneficiary Form on record at the Fund. If there are multiple beneficiaries, the notification shall include each living beneficiary and the proportion of the COLA Award paid to each beneficiary shall be based on the percentage stated in the Designation of Beneficiary Form.

(d) If the sole beneficiary designated by the COLA Awardee in the Fund's Designation of Beneficiary Form is deceased or if the Designation of Beneficiary Form cannot be located within thirty (30) days of the Fund being notified of the COLA Awardee's death, the notification shall name the COLA Awardee's Estate or heirs in accordance with Title 4 GCA § 8142.2.

(e) If there are multiple beneficiaries designated by the COLA Awardee in the Fund's Designation of Beneficiary Form, and if any of them are deceased, the notification shall name each of the living beneficiaries and the deceased beneficiary's Estate or heirs in accordance with Title 4 GCA § 8142.2 regarding the deceased beneficiary's percentage interest as designated in the Designation of Beneficiary Form.

SOURCE: Added by P.L. 29-004:13 (Sept. 6, 2007).

§ 8142.2. Priority of Payments Continued.

When a COLA Award is authorized to be paid in accordance with this Section, such payment shall be made as follows:

(a) If an estate proceeding has been opened for a COLA Awardee and a Personal Representative has been appointed, then the COLA Award (or the applicable percentage thereof designated to the deceased beneficiary) shall be paid to the duly appointed Personal Representative of the COLA Awardee's Estate to be distributed as part thereof;

(b) If an estate proceeding has been opened for a COLA Awardee but has since been closed and a Decree of Final Distribution has been issued and filed, then the Fund shall pay the COLA Award to the Personal Representative of the COLA Awardee's Estate upon submission of a reappointment, new Letters Testamentary or Letters of Administration, as the case may be, in accordance with a reopening of the estate pursuant to Title 15 GCA § 3039;

(c) If an estate proceeding was never opened, then any person claiming to be an heir of the COLA Awardee or otherwise claiming to be entitled to distribution of the COLA Award or any part thereof

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may file a Petition in the Superior Court setting forth his or her claim and requesting the Superior Court to determine who is entitled to the COLA Award distribution. Upon submission of the Superior Court's Final Decree determining which persons are entitled to distribution of the COLA Award and setting forth the interests of each, the Fund shall notify the Treasurer of Guam to make payment in accordance with said Decree; or

(d) If an estate proceeding was never opened, any person claiming to be an heir of the COLA Awardee or otherwise claiming to be entitled to distribution of the COLA Award or any part thereof may file a petition pursuant to Title 15 GCA § 3101.1.

SOURCE: Added by P.L. 29-004:14 (Sept. 6, 2007).

§ 8142.3. Determination of Priority for COLA Awards.

The Director of the Fund may reasonably rely on any of the documents enumerated herein to analyze information concerning marriage, death, survivorship, and priority of payments under §§ 8142.1 and 8142.2 if a COLA Awardee or a person next in priority is deceased. The Director's reasonable reliance on said documentation in making payment of the COLA Award shall constitute acquittance for said payment and shall fully discharge the Director and the Fund from further liability with respect thereto without further investigation or inquiry:

(a) a certified death certificate (original or copy);

(b) a certified marriage certificate, or equivalent (original or copy);

(c) the Designation of Beneficiary Form on record at the Fund;

(d) Letters Testamentary or Letters of Administration; and

(e) applicable court orders determining persons entitled to and directing payment of the COLA Awardee's COLA Award.

SOURCE: Added by P.L. 29-004:15 (Sept. 6, 2007).

§ 8143. Investment of Funds.

(a) The reserves of the Fund in excess of requirements for current operations shall be invested and reinvested by or under authority of the Board of Trustees. At its discretion, the Board may designate its Chairman or an investment committee consisting of two (2) or more members of the Board to supervise this function; in either case, references to the Board in §§ 8143 through 8159, inclusive, shall be deemed to refer to the individual or committee exercising said function.

(b) The Board shall have full power to manage the investments as in its considered judgment seem most appropriate to the requirements and objectives of the Fund, including but not limited to the power

(1) to hold, purchase, sell, convey, assign, transfer, dispose of, lease, subdivide or partition any assets held or proceeds thereof;

(2) to execute or cause to be executed relevant documents;

(3) to enter into protective agreements, execute proxies, grant consents; and

(4) to do all other things necessary or appropriate to its position as an owner or creditor;

provided, however, that neither the Board nor its agents may invest in any form, directly or indirectly in a hotel or motel operation Guam.

(c) All proceeds and income from investments, of whatever nature, shall be credited to the accounts of the Fund. Transactions in marketable securities shall be carried out at prevailing market prices.

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(d) The Board may commingle securities and moneys subject to the crediting of receipts and earnings and charging of payments to the appropriate accounts established by this Chapter.

(e) No member of the Board and no employee of the Board shall have any direct or indirect interest in the income, gains or profits on any investment made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment made by the Board. Participation in the Fund under the terms of this Chapter shall not be construed to include interest, pay or emolument within the meaning of this Subsection.

(f) No member of the Board, employee or agent shall become an endorser or surety or in any manner an obliger of investments made by the Fund, nor shall any member, employee or agent be held liable for actions taken in good faith and in performance of his duties.

(g) Investments may be held in bearer form or may be registered either in the name of the Fund or the nominee of the custodian engaged under § 8144.

(h) Due bills may be accepted from brokers against payment for securities purchased, pending delivery within a reasonable period of time of certificates representing such investments.

(i) The Board may, for the purpose of protecting the fund, and at its discretion, purchase insurance on the lives of the members of the fund; provided, that costs incurred in providing said insurance shall be displayed separately apart from administrative expenses if the fund is required to budget for such item along with other operating expenditures.

(j) Before the Board may approve by resolution the acquisition of real property consisting of physical assets under § 8159 of Title 4 GCA, the following steps must be taken:

(1) the proposed acquisition must be reviewed and recommendations must be submitted to the Board by an investment agent as defined under § 8145 of this Chapter;

(2) the completion of an in-house evaluation of the proposed acquisition must be completed;

(3) a review of the proposed acquisition as to legal sufficiency must be made by the Attorney General; and

(4) a review and recommendation must be submitted by three (3) members of the Board of Trustees.

At no time shall an acquisition considered under this Subsection (j) be made that would provide an immediate investment return which is less than the average rate of investment return that the Fund is receiving overall on its alternative investment portfolio.

(k) If deemed material, the Board may, at its discretion, incorporate long-term sustainability factors in evaluating investment products offered by investment agents for consideration by the Fund. Materiality assessments by the Board shall be based on whether such considerations may impact the investment product's long-term sustainable earnings power, on a risk-adjusted basis.

SOURCE: GC § 4225, as amended by P.L. 13-199:11 (Nov. 11, 1976). Subsection (j) added by P.L. 18-005:3 (May 28, 1985). Repealed by P.L. 26-035:IV:17 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Subsection (j) amended by P.L. 32-086:4 (Nov. 27, 2013). Subsection (k) added by P.L. 38-120:3 (Apr. 8, 2026).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606. Reference to "territory" removed and/or altered to "Guam" pursuant to 1 GCA § 420. Reference to "§ 4225.16 of the Government Code, as amended," removed from subsection (j) pursuant to authority granted by 1 GCA § 1606.

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§ 8144. Custodian.

The Board shall engage one or more custodians to assume responsibility for the physical possession of fund assets or evidences of assets.

(a) The custodian shall submit such reports, accountings and other information in such form and at such times as requested by the Board. All costs incurred for custodial services shall be a direct charge to Investment Income.

(b) The custodian shall hold all assets for the account of the Government of Guam Retirement Fund and shall act only upon the instructions of the Board, its ex-officio director, or a member, committee or agent so authorized by the Board.

(c) No custodian shall be engaged unless it:

(1) has been continuously engaged in rendering custody services for a period of ten (10) or more years; and

(2) is organized under the laws of the United States or a state or territory thereof; and

(3) has Tier 1 capital in excess of One Billion Dollars ($1,000,000,000); and

(4) is a member of the Federal Reserve System whose deposits are insured by the Federal Deposit Insurance Corporation or any successor thereto; or

(5) notwithstanding any of the above, any locally chartered bank may be a custodian of the Retirement Fund.

SOURCE: GC § 4225.1, as amended by P.L. 13-199:12 (Nov. 11, 1976). Subsection (c) repealed and reenacted by P.L. 26-035:IV:18 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:5 (Nov. 27, 2013), P.L. 32-135:2 (Mar. 2, 2014).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2018 NOTE: Subsection designations added/altered pursuant to authority granted by 1 GCA § 1606.

2014 NOTE: Pursuant to P.L. 32-135:5 (Mar. 2, 2014):

Section 5. Effective Date. This Act shall become effective retroactively to the enactment date of Public Law No. 32-086, November 27, 2013.

§ 8145. Investment Agent.

(a) In order to secure expert advice and counsel, the Board may engage an investment agent to serve as investment counsel which shall be either an investment counsel or a bank trust department as hereinafter qualified; and one or more investment agents to serve as investment manager(s) to manage asset classes identified by the Board upon the recommendation of investment counsel. All costs incurred in this connection shall be a direct charge to Investment Income.

(b) No person, firm or corporation shall be eligible for employment as investment counsel which acts as principal for its own account or as broker for a client other than the Fund in connection with the sale of any security to or the purchase of any security from the Fund.

(c) No investment agent shall be engaged unless:

(1) the principal business of the person, firm or corporation selected by the Board consists of rendering investment supervisory services, that is, the giving of continuous advice as to the investment of Funds on the basis of the individual needs of each client; and

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(2) the principal ownership or control of such person, firm or corporation rests with individuals who are actively engaged in such business; and

(3) such person, firm or corporation and its predecessors have been continuously engaged in such business for a period of ten (10) or more years; and

(4) such person, firm or corporation is registered as an investment adviser under the laws of the United States of America, as from time to time in effect, such as the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940, as amended; and

(5) the contract between the Board and the investment agent is of no specific duration and is voidable at any time by either party; and

(6) such person, firm or corporation certifies in writing, to the Board, that the assets under its direct investment supervision are in excess of One Billion Dollars ($1,000,000,000).

(d) The Board shall not engage a bank trust department unless it:

(1) certifies in writing, to the Board, that the assets under its direct investment supervision are in excess of One Billion Dollars ($1,000,000,000); and

(2) has been, together with its predecessors, continuously engaged in supervising investments for a period of ten (10) or more years; and

(3) is organized under the laws of the United States, or a state or territory thereof; and

(4) has Tier 1 capital in excess of One Billion Dollars ($1,000,000,000); and

(5) is a member of the Federal Reserve System whose deposits are insured by the Federal Deposit Insurance Corporation or any successor thereto.

(e) The Board, or its designee under § 8143(a), shall establish and may from time to time change operating arrangements with the Investment Agent in order to facilitate efficient management and timely investment action.

(f) No investment shall be made unless in the opinion of the Investment Agent it is an appropriate investment for the Fund and is an authorized investment under §§ 8143 through § 8159, inclusive, or in the absence of such opinion, unless preceded by a resolution of the Board directing the investment.

SOURCE: GC § 4225.2, as amended by P.L. 13-199:13 (Nov. 11, 1976). Repealed and reenacted by P.L. 26-035:IV:19 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:6 (Nov. 27, 2013), P.L. 32-135:3 (Mar. 2, 2014).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2014 NOTE: Pursuant to P.L. 32-135:5 (Mar. 2, 2014):

> Section 5. Effective Date. This Act shall become effective retroactively to the enactment date of Public Law No. 32-086, November 27, 2013.

§ 8146. General Investment Limitations.

No investment shall be made if, after such investment, the Fund would own:

(a) any combination of obligations of any one political subdivision, corporation or other single issuing entity in excess of ten percent (10%) of Fund assets at cost. This limitation shall not apply to general obligations of the United States, investments authorized under § 8150, or general obligations of Guam.

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(b) any combination of investment instruments as covered by § 8151, Subsection (b) of § 8154, Subsection (b) of § 8156, and Subsection (b) of § 8157 in excess of Fifty Percent (50%) of Fund assets at cost.

(c) Obligations or other investments issued or guaranteed by Guam in excess of ten percent (10%) of Fund assets at cost; provided, however, that this limitation shall not apply to such obligations or other investments that are unconditionally guaranteed as to principal and interest by, or supported by lease assignment from, another entity whose principal business is outside of Guam, and whose obligations are authorized investments under §§ 8143 through 8159, inclusive.

SOURCE: GC § 4225.3. Repealed and reenacted by P.L. 22-006:1 (Mar. 29, 1993), P.L. 26-035:IV:20 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:7 (Nov. 27, 2013); P.L. 38-120:4 (Apr. 8, 2026).

2026 NOTE: P.L. 38-120:4 (Apr. 8, 2026) replaced "the government of Guam" with "the territory of Guam" in subsection (a) and (c), but references to "territory" were omitted pursuant to 1 GCA § 420. P.L. 38-120:4 replaced "Guam" in subsection (c) with "said Territory," but this reference was replaced with "Guam" pursuant to 1 GCA § 420.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8147. Guarantees and Assignments.

Bonds or other evidence of indebtedness of any issuing entity, if not authorized for investment by other sections, are authorized under this Section if they are:

(a) Unconditionally guaranteed as to principal and interest by another entity; or

(b) Secured by a first mortgage and by an unconditional assignment of lease payments by another entity; or

(c) Secured by a chattel mortgage or conditional sales contract and by an unconditional assignment of lease payments by another entity, and the face amount of the bonds or other evidence of indebtedness does not exceed eighty percent (80%) of the purchase price of the property securing the mortgage or contract; provided, however, that under Subsections (a), (b) and (c), the bonds or other evidences of indebtedness of the guarantor or lessor are authorized investments under §§ 8142 through 8159 inclusive.

SOURCE: GC § 4225.4, subsection (c) amended by P.L. 13-056:1 (Sept. 22, 1975). Repealed and reenacted by P.L. 26-035:IV:21 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8148. Authorized Investments.

Sections 8142 through 8159, inclusive, identify specific types of investments which are authorized for purchase by the fund subject to the procedures, limitations and authorizations contained in §§ 8142 through 8145, inclusive. Nothing contained in any Section shall be construed to require sale or disposition of an investment, authorized at the time of acquisition, if such investment should subsequently cease to be authorized for purchase.

SOURCE: GC § 4225.5, as amended by P.L. 13-056 (Sept. 22, 1975). Repealed and reenacted by P.L. 26-035:IV:22 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

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§ 8149. Authorized Investments: Bank Deposits; Other Cash Equivalents.

(a) Interest-bearing time deposits, demand deposits, and cash sweep deposit accounts in banks organized under the laws of the United States, or any state or territory thereof; provided, that said bank:

(1) has Tier 1 capital in excess of One Billion Dollars ($1,000,000,000); and

(2) is a member of the Federal Reserve System; and

(3) together with any predecessors, have been conducting a banking business for a continuous period of ten (10) or more years; or

(4) any bank or savings and loan association chartered in Guam, and a member of the Federal Deposit Insurance Corporation or the Federal Home Loan Bank System.

(b) Cash equivalents purchased in investment funds authorized under § 8158 or in exchange-traded funds authorized under § 8158.1; in amounts and for durations approved by the Board in connection with the management of uninvested cash balances; such purchases shall be excluded from limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.6, as amended by P.L. 13-124:4 (Jan. 9, 1976). Repealed and reenacted by P.L. 26-035:IV:23 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:8 (Nov. 27, 2013), P.L. 32-135:4 (Mar. 2, 2014).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2014 NOTE: Pursuant to P.L. 32-135:5 (Mar. 2, 2014):

> Section 5. Effective Date. This Act shall become effective retroactively to the enactment date of Public Law No. 32-086, November 27, 2013.

§ 8150. Authorized Investments: Bonds of United States and Federal Instrumentalities.

(a) Bonds or other evidence of indebtedness of the United States of America, or any of its agencies or instrumentalities, when such obligations are guaranteed as to principal and interest by the United States of America or by any agency or instrumentality thereof;

(b) Debt securities issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation that are backed by pools of mortgage loans and guaranteed as to timely repayment of principal and interest by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; or

(c) Non-mortgage-related bonds or other evidence of indebtedness of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(d) Bonds authorized under this Section may be purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases shall be excluded from the limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.7. Repealed and reenacted by P.L. 26-035:IV:24 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 30-233:2 (Dec. 30, 2010). Amended by P.L. 32-086:9 (Nov. 27, 2013).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

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§ 8151. Authorized Investments: Bonds Issued by National Governments Other than The United States.

Bonds and other evidences of indebtedness which are direct obligations of, or secured by, the full faith and credit of national governments other than the United States, where there exists the power to levy taxes for the prompt payment of the principal and interest of such bonds or evidences of indebtedness, provided that:

(a) the issuer shall not be in default in the payment of principal or interest on any bonds or other evidences of indebtedness; and

(b) the investment agent determines that such an investment would be employed by a prudent person acting in a like capacity and familiar with such matters would use in the investment of a fund with like character and with like aims; and

(c) no investment shall be made in any one (1) issue described in this Section in an amount in excess of ten percent (10%) of such issues.

(d) Bonds authorized under this Section may be purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases shall be excluded from the limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.8. Repealed and reenacted by P.L. 22-006:2 (Mar. 29, 1993), P.L. 26-035:IV:25 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:10 (Nov. 27, 2013).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8152. Authorized Investments: Bonds of States and Territories.

(a) Bonds or other evidences of indebtedness which are direct obligations of or secured by the full faith and credit of, any state or territory of the United States, or the District of Columbia, where there exists the power to levy taxes for the prompt payment of the principal and interest of such bonds or evidences of indebtedness; but the issuer shall not be in default in the payment of principal or interest on any bonds or other evidences of indebtedness.

(b) Bonds authorized under this Section may be purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases shall be excluded from the limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.9. Repealed and reenacted by P.L. 26-035:IV:26 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:11 (Nov. 27, 2013).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8153. Authorized Investments: Public Revenue Bonds.

(a) Bonds or other obligations which are payable from revenues or earnings specifically pledged therefore of a public utility, state, municipally or territorially owned, either directly or through civil division, authority or public instrumentality of a state or territory or municipality; provided that:

(1) the laws of the state or territory or municipality authorizing the issuance of such bonds or other obligations require that rates for service shall be fixed, maintained and collected at all times so

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as to produce sufficient revenue or earnings to pay all operating and maintenance charges, and both principal and interest of such bonds or obligations; and

(2) no such bonds or other obligations shall be in default in the payment of principal or interest.

(b) Bonds authorized under this Section may be purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases shall be excluded from the limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.10. Amended by P.L. 32-086:12 (Nov. 27, 2013).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2018 NOTE: Subsection designations added/altered pursuant to authority of 1 GCA § 1606.

§ 8154. Authorized Investment: Bonds of Domestic and Foreign Corporations; Index-Eligible Securities.

(a) Bonds of Domestic Corporations. Bonds, debentures, notes and other evidences of indebtedness of any corporation, or corporations created or existing under the laws of the United States, or of any of the states or territories of the United States, or the District of Columbia, which are not in default either as to principal or interest, provided that:

(1) such bonds or other evidence of indebtedness are rated within the four (4) highest categories of two (2) nationally recognized and published rating services which have been approved by the Board and the investment agent; or

(2) in case such bonds or other evidence of indebtedness are not so rated by two (2) such services, investments in such lesser-ranked domestic corporate bonds shall not exceed fifteen percent (15%) of the Fund at cost;

(3) No more than five percent (5%) of the Fund at cost shall be invested in the obligations of any one (1) domestic corporation or other single domestic issuing entity described in this Subsection.

(b) Bonds of Foreign Corporations. Bonds, debentures, notes and other evidences of indebtedness of any corporation, or corporations created or existing under the laws of nations other than the United States which are not in default either as to principal or interest; provided, that the Investment Agent in its informed opinion, determines that such an investment would be employed by a prudent person acting in a like capacity and familiar with such matters would use in the investment of a fund of like character and with like aims.

(c) No investment shall be made in any one (1) issue described in Subsections (a) and (b) of this Section in an amount in excess of ten percent (10%) of such issues.

(d) Securities in Board-Approved Bond Benchmark Indices. Bonds, debentures, notes and other evidences of indebtedness which are denominated in U.S. Dollars, and of the quality of fixed income securities covered by applicable bond benchmark indices approved by the Board of Trustees.

(e) Bonds authorized under this Section may be purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases shall be excluded from the limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.11; repealed and reenacted by P.L. 22-006:3 (Mar. 29, 1993). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 30-120:2 (Apr. 1, 2010); P.L. 32-086:13 (Nov. 27, 2013); P.L. 38-120:5 (April 8, 2026).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

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2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8155. Authorized Investments: Equipment Trust Obligations.

(a) Equipment trust obligations or certificates evidencing an interest in or lien upon transportation equipment used or to be used by a common carrier or carriers and a right to receive determined portions of fixed obligatory payments for the use or purchase of such equipment, when such obligations or certificates are issued and are unconditionally guaranteed as to principal and interest, and, as to the payment of such obligatory payments, by a corporation created or existing under the laws of the United States or any state, district or territory thereof, or the Dominion of Canada or any of its provinces, and when the face amount of such obligations or certificates does not exceed eighty percent (80%) of the purchase price of the transportation equipment.

(b) No investment shall be made in any one issue described in this Section in an amount in excess of ten percent (10%) of such issue.

SOURCE: GC § 4225.12. Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8156. Authorized Investments: Domestic and Foreign Preferred Stock.

(a) Domestic Preferred Stock. Domestic preferred or guaranteed stock or shares of any institution created or existing under the laws of the United States or of any state, district or territory thereof or the District of Columbia; provided that:

(1) All publicly held prior obligations and prior preferred stock, if any, of such institution at the date of acquisition are eligible as investments under §§ 8143 through 8160; and

(2) the net earnings of the institution available for fixed charges over a period of five (5) fiscal years next preceding the date of investment have averaged per year, and during either of the last two (2) years have been, after depreciation and after income taxes, no less than:

(A) two times its average annual fixed charges, maximum contingent interest and preferred dividend requirements over the same period, in the case of any public utility company; or

(B) three (3) times its average annual fixed charges, maximum contingent interest and preferred dividend requirements over the same period, in the case of any other company.

For purposes of this Subsection, the term "preferred dividend requirements" shall mean cumulative and noncumulative dividends on all preferred stock of the issuer, whether paid or not.

(b) Foreign Preferred Stock. Foreign preferred or guaranteed stock or shares of any institution created or existing under the laws of nations other than the United States which are not in default either as to principal or interest; provided, that the investment agent in its informed opinion, determines that such an investment would be employed by a prudent person acting in a like capacity and familiar with such matters would use in the investment of a fund of like character and with like aims.

(c) Limitations:

(1) No investment shall be made in any one issue described in Item (1) of Subsection (a) of this Section in an amount in excess of ten percent (10%) of such issues.

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(2) No more than two percent (2%) of the Fund at cost shall be invested in the preferred stock of any one issuing domestic company.

(3) No more than two percent (2%) of the Fund at cost shall be invested in the preferred stock of any one issuing foreign company.

(4) The aggregate of all investments authorized under this Section shall not exceed fifteen percent (15%) of Fund assets at cost.

(5) Preferred stock authorized under this Section may be purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases shall be excluded from the limitations of § 8158(e) and § 8158.1(b).

SOURCE: GC § 4225.13, subsection (a)(1) amended by P.L. 13-056:3 (Sept. 22, 1975); Repealed and reenacted by P.L. 22-006:4 (Mar. 29, 1993). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 32-086:14 (Nov. 27, 2013).

2026 NOTE: Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2012 NOTE: Subsection designations were amended in subsection (a)(2) to adhere to the Compiler's alpha-numeric scheme in accordance with the authority granted by 1 GCA § 1606.

§ 8157. Authorized Investments; Common Stock.

(a) Common or capital stock of any institution or entity created or existing under the laws of the United States, or any state, district, or territory thereof, or of the District of Columbia, provided that the Investment Agent determines that such an investment would be employed by a prudent person acting in a like capacity and familiar with such matters would use in the investment of a fund with like character and with like aims. No more than ten percent (10%) of the Fund shall be invested directly in the common or capital stock of any one issuing domestic company described in this Section.

(b) Common or capital stock of any institution or entity created or existing under the laws of nations other than the United States; provided, that the Investment Agent determines that such an investment would be employed by a prudent person acting in a like capacity and familiar with such matters would use in the investment of a fund with like character and with like aims.

(c) No direct investment shall be made in any one (1) issue described in this Section in an amount in excess of ten percent (10%) of such issues.

(d) Common or capital stock of any institution or entity created or existing under the laws of the United States, or any state, district, or territory thereof, or of the District of Columbia, or of any foreign country, purchased and held in investment funds authorized under § 8158, or in exchange-traded funds authorized under § 8158.1; such purchases being excluded from the limitations of § 8158(e) and § 8158.1(b).

(e) [Reserved]

SOURCE: GC § 4225.14. Repealed and reenacted by P.L. 22-006:5 (Mar. 29, 1993). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Subsection (a) amended by P.L. 22-009:3 (May 7, 1993). Entire section amended by P.L. 28-136:2 (July 11, 2006); P.L. 32-086:15 (Nov. 15, 2013); P.L. 38-120:6 (April 8, 2026).

2026 NOTE: Designations in subsection (a) modified pursuant to the authority of 1 GCA § 1606. Former title "Same" replaced by the Compiler with "Authorized Investments" for clarity.

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2018 NOTE: Subsection designations in subsection (a) added/altered pursuant to authority of 1 GCA § 1606.

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2012 NOTE: In maintaining the general codification scheme of the GCA the Compiler changed the hierarchy of subsections beginning with "Lowercase Roman Numerals" to "Numbers" in subsection (a).

§ 8158. Investment Funds.

(a) Common or capital shares of any investment trust or mutual fund (including any index fund) registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as from time to time amended; provided, that the cost of the shares acquired is no greater than their net asset value on the date of acquisition.

(b) Units in any common trust fund or commingled fund (including any index fund) maintained by a custodian meeting the requirements of Title 4 GCA, § 8144, and advised or sub-advised by an investment management organization meeting the requirements of Title 4 GCA, § 8145.

(c) Preferred shares of any investment trust or mutual fund (including any index fund) registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as from time to time amended; provided that:

(1) the number of issued and outstanding common or capital shares multiplied by their asset value per share, plus;

(2) the number of issued and outstanding preferred shares, multiplied by their par or stated value, is at least fifty percent (50%) greater than the number of issued and out-standing preferred shares, multiplied by their par or stated value. For purposes of this Section, the number of issued and outstanding shares shall be taken as of the latest available public report of such investment trust or mutual fund. Preferred shares as described in this Subsection shall not be subject to the provisions of § 8156.

(d) The term "net asset value" as used in this Section shall mean the total quoted or estimated market value of all securities or other assets owned, less that total of all determinable liabilities, as reported by such common trust fund, commingled fund, investment trust or mutual fund.

(e) Limitation:

(1) The investment in units, preferred, common and capital stock of any one common trust fund, commingled fund, investment trust or mutual fund shall not exceed five percent (5%) of the Fund at cost; and

(2) The aggregate of all investments under this Section, except for investment fund purchases of cash equivalents authorized under § 8149, bonds authorized under §§ 8150 through 8154, domestic and foreign preferred stock authorized under § 8156, and common or capital stock authorized under § 8157, shall not exceed thirty percent (30%) of the Fund at cost.

SOURCE: GC § 4225.15. Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001). Amended by P.L. 28-135:2 (July 11, 2006), P.L. 32-086:16 (Nov. 27, 2013).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8158.1. Exchange Traded Funds.

(a) Units or shares of any exchange traded fund (ETF) established as an open-end investment management company or a unit investment trust registered with the Securities and Exchange Commission under the Investment Company Act of 1940, as from time to time amended. Although ETFs may trade at prices established throughout the trading day, like any other listed equity security trading in the secondary market on an exchange, the units or shares described in this Subsection shall not be subject to the provisions

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of § 8157. Although ETFs are unit investment trusts, the units or shares described in this Subsection shall not be subject to the provisions of § 8158.

(b) The investment in units or shares of any one exchange traded fund shall not exceed twenty percent (20%) of the Fund at cost.

SOURCE: Added by P.L. 29-089:2 (July 18, 2008). Amended by P.L. 32-086:17 (Nov. 27, 2013).

§ 8159. First Mortgages or Interests Therein. Secured Interests in Real Property.

(a) Entire first mortgages on improved unencumbered real property located in the United States, any state or territory thereof, or the District of Columbia, provided that the amount loaned does not exceed seventy-five percent (75%) of the fair market value of such property, the worth to be substantiated by a qualified real estate appraiser acceptable to the Board.

(b) Bonds, notes or other evidences of indebtedness secured by first mortgages on real property that are:

(1) Guaranteed by the Veterans' Administration under the Servicemen's Re-adjustment Act of 1944 (as from time to time amended), or otherwise guaranteed by the United States of America, or by any agency or instrumentality of the United States of America which affords essentially the same protection as that provided by the Serviceman's Re-adjustment Act of 1944; or

(2) Insured under the National Housing Act or under the Farmer's Home Administration Act of 1946 (as from time to time amended), provided that the amount loaned does not exceed one hundred percent (100%) of the fair market value of the property, the worth to be substantiated by a qualified real estate appraiser acceptable to the Board.

(c) Real property, first mortgages on real property, or any participation or interest therein, which may also include equipment essential to the use of said real property, provided that:

(1) The repayment of principal and interest on such mort gages or the rental income from such real property or interest therein is guaranteed by, or secured by direct or assigned obligations of, any institution or entity whose bonds or other evidences of indebtedness are authorized investments under §§ 8143 through 8160, inclusive; and

(2) Such property is located in the United States, any state or territory thereof, or the District of Columbia; and

(3) The amount loaned or paid does not exceed one hundred percent (100%) of the fair market value of property or participation or interest therein, the worth to be substantiated by a qualified real estate appraiser acceptable to the Board.

(d) Any shares or participating interests in a corporation or trust formed to acquire investments of the types authorized in Subsections (a), (b) and (c) of this Section.

(e) "Improved real property," as used in this Section, shall mean real property on which is situated permanent buildings suitable for residence, industry or commerce. The term "mortgage" shall be construed to include a deed of trust for security. The term "interest in real property" shall be construed to include a leasehold in real property.

(f) Real property for the purposes of this Section shall not be deemed to be encumbered within the meaning of this Section by reason of the existence of instruments reserving rights-of-way, sewer rights and rights in walls nor by reason of building restrictions or other restrictive covenants, nor by reason of the fact that it is subject to lease under which rents or profits are reserved to the owner, if the security for such

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investment is a full and unrestricted first lien upon such real property and there is no condition nor right of re-entry or forfeiture under which such investments can be cut off, subordinated or otherwise disturbed.

(g) No investment shall be made, either directly or indirectly, in mortgages junior to first mortgages.

(h) No mortgage loan upon a leasehold shall be made or acquired pursuant to this Section unless the terms thereof provide for amortization payments to be made by the borrower on the principal thereof at least once in each year in amounts sufficient to completely amortize the loan within a period of four-fifths (4/5ths) of the term of the leasehold, inclusive of the term which may be provided by enforceable option of renewal, which is unexpired at the time the loan is made, but in no event exceeding thirty (30) years.

(i) Servicing agreements may be arranged with qualified mortgage servicing institutions for the handling of mortgage service details. The servicer may be reimbursed the customary fee charged by the trade. The servicer shall furnish the Board each month, with respect to each mortgage serviced, postings of all cash transactions affecting each mortgage and, at the end of each calendar year, a completely posted ledger sheet for each separate mortgage serviced, giving all cash transactions affecting such mortgage.

(j) The aggregate of all investments made under this Section shall not exceed forty percent (40%) of the Fund at cost.

(k) In making mortgage investments under this section priority shall be given to mortgages on residential property located in Guam. The aggregate of such mortgage investments shall not exceed ten percent (10%) of the Fund assets.

SOURCE: GC § 4225.16; Subsection (c)(1) amended by P.L. 13-056:4 (Sept. 22, 1975); subsection (k) added by P.L. 22-006:10 (Mar. 29, 1993). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8160. Supplemental Residential Financing for Members.

In cases of demonstrated need, loans or loan guarantees not secured by real property interests may be made to members of the Retirement Fund who are then currently employed by the government of Guam for the purpose of facilitating purchase and ownership of single-family residential units located in Guam, to be occupied by such members, or for repairs, remodeling or extension of single-family units, provided that:

(a) Such loans or loan guarantees shall be referred to herein as supplemental loans;

(b) The long-term financing for such residential units is arranged by a qualified institutional lender subject to the approval of the Board of Trustees of the Retirement Fund;

(c) The term of a supplemental loan or loan guarantee may not extend beyond the normal or elected early retirement date of a borrower, or fifteen (15) years, whichever is earlier;

(d) Supplemental loans or loan guarantees shall be an amount of fifteen percent (15%) or less of the fair market value, as established by a qualified real estate appraiser acceptable to the Board, of the residential unit to be purchased, repaired, remodeled or extended by the member;

(e) No loan or loan guarantee shall exceed an amount equal to one hundred twenty-five percent (125%) of the lump sum cash amount which would be payable under the provisions of the Retirement Plan to such a member if he were to terminate his employment on the date of his supplemental loan or loan guarantee application. Supplemental loans or loan guarantees shall be made to members of the Fund who have served the government of Guam and contributed to the Fund at least five (5) years and have at least Two Thousand Five Hundred Dollars ($2,500) in membership contribution;

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(f) All payments for principal, interest and other charges owing with respect to a supplemental loan or loan guarantee shall be withheld from the salary of the borrower by the government of Guam for the Retirement Fund and remitted directly to said Fund;

(g) Each loan or loan guarantee shall be secured by an absolute assignment of the entire present and future interest of the borrowing member in the Retirement Fund, and by an absolute assignment of any other amounts payable or to be payable to such member by the government of Guam or any department or agency thereof upon termination of employment of the member;

(h) Credit life insurance and disability insurance or an approved equivalent, payable to the Retirement Fund in the event of death or permanent disability of borrowing members, shall be procured and maintained by the Board of Trustees of the Retirement Fund in behalf of, and at the expense of the borrower, in amounts determined by the Board;

(i) Financing under this Subsection shall be administered in accordance with policies and procedures established by the Board.

SOURCE: GC § 4225.17, as added by P.L. 13-056:5 (Sept. 22, 1975). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

2022 NOTE: Reference to "Territory" omitted pursuant to 1 GCA § 420.

§ 8161. Administration of the Loan or Loan Guarantee.

The Director of the Retirement Fund shall institute such arrangements as are necessary with the respective lending institutions to facilitate processing and servicing of the loan or loan guarantee.

SOURCE: GC § 4225.18, as added by P.L. 13-056:6 (Sept. 22, 1975). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8162. Supplemental Loans: Restrictions.

For the purposes of obtaining a supplemental loan or loan guarantee to facilitate the purchase, repair, remodeling or extension of an owner-occupied, single-family dwelling by a member of the Retirement Fund, and only for these purposes, the restriction in § 8166 of this Chapter against assignment or transfer, the restriction against the annuity, benefit or refund answering for debts contracted by a member of the Retirement Fund, and the restriction against attachment or affectation by judicial proceeding, shall not apply.

SOURCE: GC § 4225.19, as added by P.L. 13-056:7 (Sept. 22, 1975). Repealed by P.L. 26-035:IV:27 (Sept. 28, 2001). Reenacted to its prior version by P.L. 26-058:XI:10 (Nov. 20, 2001).

2025 NOTE: The Compiler has corrected manifest errors in past publications of the GCA, including omissions of legislative history.

§ 8163. Accounts and Records.

An adequate system of accounts and records shall be established and maintained for the Fund that will reflect fully the requirements of the provisions of this Chapter. This system shall be integrated, to the extent possible, with the accounts, records and procedures of the Government and to the end that the same shall operate most effectively and at minimum expense, and that duplication of records and accounts may be avoided.

SOURCE: GC § 4226.

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§ 8164. Contribution Reserves and Accounts.

All assets of the Fund shall be credited according to the purposes for which they are held in the following designated reserve accounts:

(a) Members' Contribution Reserve. The amounts contributed by the members shall be credited to this reserve, together with regular interest thereon as herein provided.

(1) An individual account shall be maintained for each member, to which shall be credited the amounts of his contributions and interest thereon. Regular interest on such contributions shall be credited annually, as of the close of each year and shall be allowed only on the amount of the accumulated contributions standing to the credit of each member at the close of each year. A statement of account shall be issued to each member, annually, as of the end of each fiscal year, showing the amount of his accumulated contributions plus interest.

(2) Upon the granting of a service retirement annuity, disability annuity or survivors annuity or benefit, the accumulated contributions, including interest, to the credit of the member concerned shall be transferred from this reserve to the retirement reserve. Refunds and death benefit payments representing members' contributions shall be charged to this reserve.

(3) Upon effective election by a member to participate in the Defined Contribution Retirement System in accordance with the provisions of § 8207 of this Chapter, the accumulated contributions, including interest, to the credit of the member concerned shall be transferred from this reserve to the member's account in the Defined Contribution Retirement System and treated as the member's contribution, subject to distribution limitations applicable to funds in the member's account.

(b) Employer's Contribution Reserve. The amounts contributed by the government under the provisions hereof, or service retirement annuity, disability retirement annuity and benefits to survivors covering membership service and prior service, shall be credited to this reserve. Regular interest shall be credited annually upon the mean amount in the reserve.

(1) Upon the granting of a service retirement annuity, disability retirement annuity or survivor's benefit, an amount representing the excess of the actuarial value of the annuity or benefit over the accumulated contributions of the member, including interest, shall be transferred from this reserve to the retirement reserve.

(2) Upon effective election by a member to participate in the Defined Contribution Retirement System in accordance with the provisions of § 8207 of this Chapter, an amount equal to five percent (5%) of the member's annual base pay for each year of creditable service immediately prior to the member's transfer, up to a maximum of five (5) years, not including interest, shall be transferred from this reserve to the Transfer Incentive Reserve in accordance with § 8209.1(b) of this Chapter, and shall be subject to the timing of distribution limitations set forth in the Defined Contribution Retirement System Plan and Trust Agreement.

(3) Transfers made pursuant to this Subsection shall be fully vested and shall constitute a window benefit to the transferring member, and shall not be available after December 31, 2000.

(c) Retirement Reserve. Upon the granting of a service retirement annuity, disability retirement annuity or survivors benefits the accumulated contributions of the member, including interest and an amount representing the excess of the actuarial value of the annuity or benefit over such accumulated contributions, shall be transferred to this reserve from the member's contribution reserve and employer's contribution reserve, respectively.

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(1) All payments on account of any such annuity or benefit shall be charged to this reserve. Regular interest shall be credited annually upon the mean amount of this reserve.

(2) Any excess balance in this reserve, as determined by actuarial valuation as of the close of any fiscal year, shall be applied to reduce the employer's contributions for membership service for the fiscal next following the date of such valuation.

(3) Any deficiency in this reserve shall be removed by an increase in the amount of the employer's contributions for membership service.

(d) Death Benefit Account. The amount representing the contributions by the Government for death benefits shall be credited to this account. All death benefit payments on account of death of the member while in service shall be charged to this account.

(e) Interest and Investment Income Reserve. All income from investments, including gains on investment transactions, shall be credited to this reserve. All losses on investment shall be charged to this reserve. All amounts required for interest on the other reserve accounts of the Fund shall be transferred from this reserve.

(f) Supplementary Annuity Payment Reserve. To defray the cost of increases in the annuity, investment income accruing to the Fund from investments held by the Fund, inclusive of gains or losses on sales or exchanges of investments during the year, over and above four percent (4%) per annum, shall be used to the extent necessary and the amount thereof shall be transferred as of the end of each year, beginning with the year 1971, to an account to be designated as the "Supplementary Annuity Payment Reserve." The increases in annuities effective January 1, 1970, shall be charged to this reserve.

SOURCE: GC § 4227. Subsection (a) as amended by P.L. 17-018:7(a) (Sept. 9, 1983). Subsections (a), (b) amended by P.L. 25-019:3-4 (May 14, 1999). Subsection (b) amended P.L. 25-157:3 (July 10, 2000).

2018 NOTE: Subsection designations in subsections (a), (b), and (c) added pursuant to authority of 1 GCA § 1606.

§ 8165. Interest of Members in Fund.

Each member shall, by virtue of the payment of contributions to the system, receive a vested interest in such contributions and in consideration of such vested interest, shall be conclusively deemed to undertake and agree to pay the same and to have the amounts deducted from his compensation as herein provided.

SOURCE: GC § 4228.

§ 8166. Right to Annuity.

(a) It is the intention of this Chapter that rights to retirement funds, disability or survivor's annuities or benefits, death benefits, or refund of whatever kind, not be attached by judicial proceeding, or assigned, or transferred for payment of any debt, except for:

(1) Court ordered child support and child support arrears; or

(2) Retirement benefits awarded by court order. Not more than fifty percent (50%) of a member's retirement benefits may be paid to a prior spouse, and only if it is court ordered. In addition, in order for a prior spouse to receive a portion of a member's retirement, the parties must have been married for a least ten (10) years during the period the member accrued retirement benefits.

(b) A prior spouse may receive a court ordered retirement portion only at the time funds are released to a member.

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SOURCE: GC § 4229; Amended by P.L. 22-099:11 (Mar. 31, 1994). Amended by P.L. 24-193:2 (May 6, 1998). Repealed and reenacted by P.L. 26-148:11 (Sept. 27, 2002) to conform to federal Child Support Requirements and to clarify the original language but not to change its meaning except as federal law requires.

§ 8167. Payments: Time For.

(a) Any service retirement annuity, disability retirement annuity or any other annuity provided herein shall be payable in equal semi-monthly installments as life annuities, or as temporary annuities, as the case may be and shall not be increased, decreased, revoked or repealed, except for error or except where specifically otherwise provided. The cost of providing death benefits for members in receipt of retirement annuities shall not be construed as a reduction in the life annuity payable to the member.

(b) Semi-monthly annuity payments to eligible members shall commence on the first regular payment date immediately following the effective date of retirement or disability and in the case of eligible survivors on the first regular payment date immediately following the death of the member or retiree. Said payments shall commence notwithstanding the fact that the Board of Trustees shall not have passed the application or authorized the expenditure therefor, in which event the payments shall be made for an amount estimated to be payable by the Director of Administration. The Board shall adopt rules and regulations to provide for the reimbursement of the Fund or the annuitant for estimate payments made in excess of or less than the annuity as finally determined by the Board.

(c) The first semi-monthly payment of annuities shall be prorated to provide benefits only for the portion of the preceding period during which the annuitant was eligible for such annuity.

(d) The last semi-monthly payment of annuities, whether occurring by reason of death, ineligibility or otherwise, shall be prorated to provide benefits only for the portion of the preceding period during which the annuitant was eligible for such annuity.

SOURCE: GC § 4230, as repealed and reenacted by P.L. 11-165:1 (Aug. 15, 1972).

§ 8168. Intent of Law.

It is the intention of this Chapter that the payment of the required contributions by the Government shall be an obligation of the Government and all allowances, annuities, benefits and administration, custodial and audit fees shall be paid from the Fund.

SOURCE: GC § 4231.

§ 8169. Penalties.

Any person who knowingly makes any false statement or falsifies or permits to be falsified, any record or records of this system, in any attempt to defraud the system, is guilty of a misdemeanor and shall be punishable therefor under the laws of the government of Guam, and the system shall have the right to recover any payments made under false representations.

SOURCE: GC § 4232.

§ 8170. Members of I Liheslatura.

The provisions of this Chapter shall apply to any person who has served as a member of I Liheslatura or who shall hereafter serve as such a member and any such person shall be considered a member of the Fund entitled to all the benefits of a member based upon the following additional provisions:

(a) Definitions and Rules of Construction. For purposes of this Chapter, the following definitions and rules of construction shall apply to members of I Liheslatura:

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(1) "I Liheslatura" means I Liheslatura Guåhan created by the Organic Act of Guam. The terms Member, Senator, and Legislator are synonyms in referring to a person gaining a seat in I Liheslatura as a result of a general or special election;

(2) Service as a member of I Liheslatura during a regular session for any one (1) calendar year shall be deemed a full year of service, regardless of the length of the session;

(3) "Average annual salary" for any member of I Liheslatura shall mean the average of the three (3) highest annual salaries received by a Legislator during his years of credited service, whether or not with I Liheslatura;

(4) The Retirement Fund shall allow any former or incumbent Legislator who desires not to receive the benefits as vested under 4 GCA § 8170(a) prior to the effective date of this Act, to permanently and irrevocably divest himself or herself thereof. Any election to divest must be in writing and may be effective retroactive to dates appropriate to the Legislator. Nothing herein shall have the effect of divesting a former or incumbent Senator of any rights without his or her consent.

(b) Creditable Service: Membership Credit: Subsequent Credit. Any person claiming creditable service as a member of I Liheslatura under the provisions of this Section shall be entitled to receive credit for years of service in I Liheslatura as follows:

(1) Service credit for all services rendered as a member of I Liheslatura, provided that such person shall have made a contribution to the Fund in accordance with Subparagraphs (c)(1), (c)(2) or (c)(3) of this Section.

(c) Contributions for Service. Any person claiming credit for service as a member of I Liheslatura shall make contributions to the Fund in accordance with the following:

(1) To receive credit for services rendered as a member of I Liheslatura during the period from 1951 to 1966, such persons or their surviving spouses shall pay before January 1, 1980 as contribution to the Fund an amount equal to One Hundred Fifty Dollars ($150) for each years of service as a member of I Liheslatura during that period;

(2) To receive credit for services rendered as a member of I Liheslatura during the period from 1966 to 1973, such persons or their surviving spouses shall pay before January 1, 1980 as contribution to the Fund an amount equal to six percent (6%) of the member's annual salary for each year of service as a member of I Liheslatura during that period;

(3) To receive credit for service rendered as a member of I Liheslatura after January 8, 1973, such person shall pay as his contribution to the Fund an amount equal to six and one-half percent (6½%) of his annual salary to be deducted from the bi-weekly salary payments to him for each year of service as a member of I Liheslatura after January 8, 1973; and

(d) Contributions for Subsequent Credit. Any person claiming service credit for any year or years following his service as a member of I Liheslatura, or the survivor of a deceased member shall make contributions to the Fund in accordance with the following:

(1) For each year of such subsequent service credit claimed during the period from 1951 to 1966 such person shall pay before January 1, 1979, as his contribution to the Fund an amount equal to One Hundred Fifty Dollars ($150).

(2) For each year of such subsequent service credit claimed during the period from 1966 to 1973, such person shall pay before January 1, 1979, as his contribution to the Fund an amount equal to Three Hundred Sixty Dollars ($360).

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(3) For each year of such subsequent service credit claimed after January 8, 1973, such person shall pay quarterly as his contribution to the Fund an amount equal to six and one-half percent (6.5%) of the annual salary received by him during his last year of service as a member of I Liheslatura.

(e) Application and Notice.

(1) The provisions of this Section shall be mandatory for any person who shall be a member of I Liheslatura on January 8, 1973 or who thereafter becomes such a member and the Board shall give notice of the application of this Section any such person within one (1) month of the date on which he takes an oath of office as a member of I Liheslatura.

(2) The Board shall give notice of the provisions of this Section to any person who has served as a member of I Liheslatura during the period of 1951 to 1973.

SOURCE: GC § 4233, as repealed and reenacted by P.L. 11-195:1 (Dec. 12, 1972); subsection (f) repealed by P.L. 12-224 (Feb. 1, 1975). Subsection (a)(3) amended by P.L. 14-114 (Apr. 6, 1978). Subsection (d) repealed and reenacted by P.L. 14-127 (June 8, 1978). Subsection (b)(2) repealed by P.L. 14-133 (July 2, 1978). Subsections (c)(1) and (c)(2) amended by P.L. 15-048 (July 2, 1979). Subsection (a) amended by P.L. 23-033:1 (June 28, 1995).

2025 NOTE: Reference to the "Guam Legislature" replaced with I Liheslaturan Guåhan and references to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 8171. Members of I Liheslatura: Contribution.

Notwithstanding provisions of law, rules, regulations or administrative practices to the contrary, the survivor of a deceased member of I Liheslatura may contribute for subsequent credit for the deceased member in accordance with the schedule set forth in § 8170 of this Chapter provided such contribution is made on or before January 1, 1979 and the surviving spouse or child of any deceased member of I Liheslatura may apply for benefits pursuant to the provisions of § 8133 of this Chapter provided such application is submitted to the Board on or before January 1, 1979.

SOURCE: GC § 4233.1, as added by P.L. 14-127:28 (June 8, 1978).

2026 NOTE: Former title "Same" replaced by the Compiler with "Members of I Liheslatura" for clarity.

2025 NOTE: References to the "Legislature" replaced with I Liheslatura pursuant to 2 GCA § 1101.

§ 8172. Retirement and Other Benefits Coverage of Elective I Maga'hågan/Maga'låhen Guåhan, I Sigundo Maga'hågan/Maga'låhen Guåhan and Their Survivors.

Notwithstanding any provisions of this Chapter to the contrary:

(a) Any person who is elected I Maga'håga/Maga'låhi or I Sigundo Maga'håga/Maga'låhi may retire following the completion of her or his term of office as I Maga'hågan/Maga'låhen Guåhan or I Sigundo Maga'hågan/Maga'låhen Guåhan. She or he shall be paid from the Retirement Fund by appropriation made by I Liheslatura notwithstanding the amount of her or his contributions thereto an annual pension during the remainder of her or his life in an amount equal to and not to exceed fifty percent (50%) of the annual salary of I Maga'håga/Maga'låhi or I Sigundo Maga'håga/Maga'låhi at the time she or he retires.

(b) If I Maga'håga/Maga'låhi or I Maga'håga/Maga'låhi shall become physically or otherwise incapacitated she or he may make application for the pension provided for in the preceding paragraph and be eligible to receive such annual pension for the same amount without regard to age.

(c) Whenever any person who is or has been an elected I Maga'håga/Maga'låhi or I Sigundo Maga'håga/Maga'låhi shall die and leave a widower or widow surviving her or him, an annuity shall

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be paid to such surviving widower or widow, in an amount equal to and not to exceed twenty percent (20%) of the annual salary received by the deceased wife or husband while in office.

(d) In implementing this Chapter with regard to determining annuities, survivors' benefits and death benefits, the provisions of law set forth in Chapter 8 of the Government Code Annotated, as amended, shall control.

(e) Any elected I Maga'håga/Maga'låhi or I Sigundo Maga'håga/Maga'låhi may elect to receive other retirement benefits pursuant to Chapter 8 of the Government Code Annotated and upon so electing shall waive the benefits provided by this Chapter.

(f) [No text]

(1) Annually, on or before the start of a fiscal year, the Director of the Government of Guam Retirement Fund shall certify to the Director of the Bureau of Budget and Management Research the amount required to implement the provisions of this Section (but not to include the cost of benefits to be made pursuant to Chapter III, Title V of the Government Code of Guam).

(A) Upon the acceptance of the amount so certified by the Director of Bureau of Budget and Management Research, said amount shall become an appropriation of the Unappropriated Surplus of the General Fund of the government of Guam and, accordingly, shall be so recorded in the books of accounts of the General Fund.

(B) Upon the release of the appropriation by the Director of the Bureau of Budget and Management Research, the Treasurer of Guam shall pay said amount to the Government of Guam Retirement Fund in increments provided by the release of the Director of the Bureau of Budget and Management Research.

(2) Within thirty (30) days after the appropriation is made hereunder, a copy of the instrument thereof shall be furnished to I Liheslaturan Guåhan.

SOURCE: GC § 4234, added by P.L. 12-196:1 (Jan. 3, 1975), Subsection (a) amended by P.L. 14-121:3 (Apr. 18, 1978), and P.L. 17-025:III:10 (Oct. 6, 1983); repealed and reenacted by P.L. 17-026:25 (Oct. 11, 1983) ("Subsection (a)… is reenacted as it existed prior to the amendment" of P.L. 17-025). Subsection (f) added by P.L. 14-153 (Dec. 1, 1978).

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

References to the "Governor" and "Governor of Guam" replaced with I Maga'håga/Maga'låhi and I Maga'hågan/Maga'låhen Guåhan; references to the "Lieutenant Governor" and "Lieutenant Governor of Guam" replaced with I Sigundo Maga'håga/Maga'låhi and I Sigundo Maga'hågan/Maga'låhen Guåhan pursuant to 5 GCA § 1510. References to the "Legislature"/"Guam Legislature" replaced with I Liheslatura/Liheslaturan Guåhan pursuant to 2 GCA § 1101.

2023 NOTE: Reference to "Territory" omitted pursuant to 1 GCA § 420.

2018 NOTE: Subsection designations in subsection (f) added pursuant to authority of 1 GCA § 1606.

§ 8173. Restriction from Transfers.

Except as authorized by the Board of Trustees, no transfers of funds are authorized from any Retirement Fund account to the General Fund or any other fund of the government of Guam. I Maga'håga/Maga'låhi shall have no transfer authority over any Retirement Fund accounts.

SOURCE: Added by P.L. 27-043:11 (Nov. 14, 2003).

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ARTICLE 2
DEFINED CONTRIBUTION RETIREMENT SYSTEM [NEW PLAN]

SOURCE: Entire Article added as §§ 8301-8319 by P.L. 23-042:3 (Sept. 29, 1995), renumbered by the Compiler pursuant to 1 GCA § 1606, with the effective date October 1, 1995.

2025 NOTE: Past publications included a Compiler Comment quoting the legislative findings and intent found in P.L. 23-042:1 (Sept. 29, 1995):

(a) The Actuarial Valuation of the Retirement Plan prepared by Deloitte & Touche as of September 30, 1993, expressed concern that the Fund benefit levels are rather excessive in comparison to most other government retirement systems.

(b) Benefit levels and retirement policy should be reviewed and benefit levels should be adjusted in order to address specific inequities, excessiveness, and desired policy objectives.

(c) It is necessary to maintain the current plan benefit levels for current members, while establishing a new plan for all new members.

(d) In establishing benefits for a new plan, generally accepted retirement income level standards should be observed and the details of any new plan must be considered thoroughly and a comprehensive education and implementation plan must be developed.

(e) The concern expressed by the Independent Actuaries must serve as a warning that the current fund may be jeopardized if the benefits it provides to its members are not reasonably related and restricted to the resources from which said benefits may be paid.

(f) Any further delay in enacting statutory changes to the current system or establishing a new plan may lead to the implementation of a plan for new members with benefits sharply disparate from those provided to current members.

(g) The legislature concurs with the recommendations of the Actuaries.

(h) The Legislature intends to establish a new "Defined Contribution Plan" for new members, in order to protect and preserve the fiscal soundness of the fund for the benefit of all its members now and in the future.

§ 8201. Definitions.
§ 8202. Defined Contribution Retirement System Created and Established; Body Corporate.
§ 8203. Article to be Liberally Construed; Purpose.
§ 8204. Administration of the Government Defined Contribution Retirement System.
§ 8205. Powers and Duties of the Board of Trustees in the Administration of the Defined Contribution Retirement System.
§ 8206. Participation in Government of Guam Defined Contribution Retirement System; Limiting Participation in Existing Retirement System.
§ 8206.1. Participation in Government of Guam Defined Contribution Retirement System; Limiting Participation in Existing Retirement System.: Ineligible Persons.
§ 8207. Voluntary Participation in System.
§ 8208. Members' Contributions.
§ 8209. Employer Contributions.
§ 8209.1. Rollovers from Member's and Employer's Contributions Reserves.
§ 8209.2. Employees on Active Duty.
§ 8210. Termination of Membership. Vesting Schedule.
§ 8211. Distributions Following Termination of Employment.
§ 8212. Amount of Benefit Payments.
§ 8213. Supplemental Annuity Contracts.
§ 8214. Account Statements.
§ 8215. Years of Employment Service for Vesting Purposes.
§ 8216. Right to Benefits not Subject to Execution, etc.

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§ 8217. Administrative Expenses.
§ 8218. Implementation.
§ 8219. Lump Sum for Sick Leave Not Utilized. [Repealed.]

§ 8201. Definitions.

As used in this article, unless the context otherwise requires:

(a) "Defined contribution system" means the Government of Guam Defined Contribution Retirement System created and established by this Article;

(b) "Existing retirement system" means the Government of Guam Retirement Fund established in Article 1 of this Chapter;

(c) "Existing employer" means any employer who employed or employs a member of the existing retirement system;

(d) "Board" means the Board of Trustees of the government of Guam Retirement Fund, which is responsible for the direction and operation of the affairs and business of the system. Title to all assets of the Retirement Fund shall be held for the Retirement Fund by the Board or its qualified agent's bank trustee;

(e) "Year of employment" for vesting purposes means each Plan Year (the twelve-month period ending on September 30) during which a member has completed at least one-thousand (1,000) hours of service for which a member is directly or indirectly provided compensation or is entitled to compensation by the government for the performance of duties for the government during the Plan Year. For purposes of determining Hours of Service, each month during which a member has completed at least one (1) hour of Service shall be equivalent to one hundred seventy-five (175) hours of service;

(f) "Employer" means each and every line department or agency of the Executive Branch, every autonomous and semi-autonomous agency or instrumentality, public corporations, every educational institution whether secondary or post-secondary, the Judicial Branch, the Legislative Branch, Public Defender Corporation, and every public entity hereafter to be created by law, within Guam which has employed or employs a member;

(g) "Member contribution" means an amount deducted from the member's regular base pay, and deposited into the member's individual annuity account within the Defined Contribution Retirement System;

(h) "Employer contribution" means an amount deposited into the member's individual annuity account or, as applicable, ancillary benefit account on a periodic basis coinciding with the employee's base payroll period by an employer from its own funds;

(i) "Account" means an account established for each member to record the deposit of member contributions, employer contributions, and interest, dividends or other accumulations credited on behalf of the member;

(j) "Retirement" means a member's withdrawal from the active employment of a participating employer and completion of all conditions precedent to such withdrawal;

(k) "Plan Document" means the Defined Contribution Retirement System Plan and Trust Agreement, as approved and adopted by the Board of Trustees, pursuant to this Article, as from time to time amended.

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(l) "Base Pay" means an employee's stated rate of pay;

(m) "Member of the Defined Contribution Retirement System" means any person who is eligible to participate and participates in the Defined Contribution Retirement System in accordance with §§ 8206, 8206.1 and 8207.

(n) [No text]

(1) "Ancillary Benefit Account" means a pool account established for all members to record the deposit of employer contributions, interest and/or other accumulations credited on behalf of all members, the balance of which shall be used solely for the payment of insurance premiums associated with the disability benefits to the extent they were offered under the Defined Contribution Retirement System. The Ancillary Benefit Account, as distinguished from the "Account," as defined in § 8201(i), shall not be subject to any distributions to members as prescribed in § 8210, nor be included in any account statements as prescribed in § 8214.

(2) Subsequent to the creation of the Welfare Benefit Account established under Article 4 of this Chapter, the Ancillary Benefit Account shall remain operative until all balances have been depleted for the payment of insurance premiums associated with the pre-retirement disability benefits and survivor death benefits offered under the Defined Contribution Retirement System. Under no circumstances shall contributions already deposited into the Ancillary Benefit Account be reimbursed or reverted to any Employer.

(o) "Transfer Incentive Reserve" means an account established for the benefit of the member under a trust agreement to record the deposit of rollover funds received from the Employer's Contribution Reserve in accordance with § 8164(b) of this Chapter, and shall include subsequent interest, dividends, and/or other accumulations credited or debited on behalf of the member, all of which shall be segregated from member and employer contributions and shall be subject to distribution limitations in accordance with this Article and as set forth in rules promulgated by the Board.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Subsection (f) amended by P.L. 23-045:IV:20 (Oct. 18, 1995). Subsection (h) amended, (n) added by P.L. 24-200:3, 7 (May 8, 1998). Subsection (o) added by P.L. 25-019:5 (May 14, 1999). Subsection (e) amended by P.L. 25-157:4 (July 10, 2000). Subsections (h) and (n) amended by P.L. 26-162:4, 6 (Dec. 31, 2002). Subsection (k) repealed and reenacted by P.L. 26-162:5 (Dec. 31, 2002). Subsection (m) amended by P.L. 28-141:2 (July 18, 2006), effective retroactively as of Oct. 1, 2005.

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2022 NOTE: Reference to "Territory" omitted pursuant to 1 GCA § 420.

2018 NOTE: Subsection designations added in subsection (n) pursuant to authority of 1 GCA § 1606.

2011 NOTE: In subsection (b), "Title" changed to "Chapter" to reflect the codification scheme of the GCA.

§ 8202. Defined Contribution Retirement System Created and Established; Body Corporate.

The Defined Contribution Retirement System is hereby created and established to provide for the secure, fair, and orderly retirement of personnel of the Government of Guam. The Defined Contribution Retirement System shall constitute a body corporate and all business of the system shall be transacted in the name of the Government of Guam Defined Contribution Retirement System.

§ 8203. Article to be Liberally Construed; Purpose.

The provisions of this Article shall be liberally construed so as to provide an individual account retirement system for any person who is employed in the government of Guam. The purpose of the Article is to provide a defined contribution retirement program which is fully funded on a current basis from employer and member contributions.

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SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 24-200:4 (May 8, 1998), P.L. 26-162:7 (Dec. 31, 2002).

§ 8204. Administration of the Government Defined Contribution Retirement System.

The Board of Trustees created pursuant to Article 1 of Chapter 8 of this Title shall administer the Government of Guam Defined Contribution Retirement System. The board may sue and be sued, contract and be contracted with and conduct all the business of the defined contribution system in the name of the Government of Guam Defined Contribution Retirement System.

§ 8205. Powers and Duties of the Board of Trustees in the Administration of the Defined Contribution Retirement System.

(a) The Board has all powers necessary to effectuate the purposes of this Article. The Board may contract with an insurance, annuity, mutual fund, or other qualified company or companies to administer the operations of the Defined Contribution Retirement System. In selecting such company or companies the Board shall take into account as its highest fiduciary duty, the proper safeguard and protection of the member and employer contributions, and the interest dividends, or other returns thereon. The Board shall promulgate rules regarding the proper investment of funds.

(b) The Board may borrow monies to effectuate the purposes of this Article, including, but not limited to, monies loaned from the Government of Guam Retirement Fund for interim financing for survivor death insurance and pre-retirement disability insurance premiums to the extent that they were offered under the Defined Contribution Retirement System.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 24-200:5 (May 8, 1998); P.L. 26-162:8 (Dec. 31, 2002).

2018 NOTE: Subsection designations added pursuant to authority of 1 GCA § 1606.

§ 8206. Participation in Government of Guam Defined Contribution Retirement System; Limiting Participation in Existing Retirement System.

(a) Beginning October 1, 1995, the Government of Guam Defined Contribution System shall be the single retirement program for all new employees whose employment commences on or after that date. No additional new employees may be admitted to the existing retirement system, except as provided from time to time in the existing retirement system. Members of the existing retirement system whose employment continues beyond September 30, 1995, shall continue to contribute and participate in the existing retirement system without change in provisions or benefits, except as provided from time to time in the existing retirement system.

(b) Any employee who leaves government service after September 30, 1995 who is later reemployed by the Government of Guam shall become a member of the Defined Contribution Retirement System, except persons who are ineligible for membership under § 8206.l; provided, that he or she shall be entitled to readmission to the existing retirement system in which he or she was originally a member if such employee has not withdrawn his or her contributions from the existing retirement system. However, if such employee has withdrawn his or her contributions from the existing retirement system, the readmission to the existing retirement system shall not be permitted and the employee will be entitled only to membership in the Government of Guam Defined Contribution System in accordance with this Article.

(c) Any employee who retires after September 30, 1995, and who later becomes re-employed by the Government of Guam shall be entitled to re-admission to the existing retirement system and subject to suspension of annuity requirements pursuant to Title 4 GCA § 8121, as amended. If such re-employed retiree is prohibited from re-admission to the existing retirement system and becomes a member of the Defined Contribution Retirement System, his annuity under the existing plan shall be suspended in the same

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manner and to the same extent applicable to similarly situated employees pursuant to Title 4 GCA § 8121, as amended, provided that no employee of I Liheslaturan Guåhan who has previously retired may become a member of the Defined Contribution Retirement System.

(d) An employee whose employment commences after October 1, 2005 and whose employment is purely temporary, seasonal, intermittent or part-time shall be a member of the Defined Contribution Retirement System unless the employee is eligible for re-admission to the existing retirement system.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 28-141:3 (July 18, 2006), effective retroactively as of Oct. 1, 2005.

§ 8206.1. Participation in Government of Guam Defined Contribution Retirement System; Limiting Participation in Existing Retirement System.: Ineligible Persons.

The following persons shall not be eligible for membership:

(a) Persons whose services are compensated on a fee basis.

(b) Independent contractors.

(c) Persons whose employment is for a specific project.

(d) Persons who are employed in the Senior Citizens Community Employment Program.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 28-141:4 (July 18, 2006).

2026 NOTE: Former title "Same" replaced by the Compiler with "Participation in Government of Guam Defined Contribution Retirement System; Limiting Participation in Existing Retirement System" for clarity.

NOTE: With respect to the amendment of this section, P.L. 28-141:11 provides: "This enactment shall take effect retroactively as of October 1, 2005, except as expressly provided herein."

§ 8207. Voluntary Participation in System.

(a) Any member with less than twenty (20) years service credit, recognized under the existing system, may, upon written election, voluntarily elect membership in the Government of Guam Defined Contribution System, on a prospective basis, on or after October 1, 1995. Said member of the existing retirement system, upon election to withdraw that person's contribution plus interest, must then deposit such funds into the Government of Guam Defined Contribution Retirement System; and as a result thereof, such member's years of service credit in the existing system shall be applied towards the years of employment service for vesting purposes under § 8210 of this Article, and no further benefits will be payable to such member under the existing retirement system.

(b) Members electing to transfer to the Defined Contribution Retirement System will have their transfers effective at the end of the first pay period following the month of transfer. Employees will have sixty-five (65) months after enactment of this legislation, and between March 1 and May 31 of every year, beginning in the year 2002, in which to elect to transfer to the Defined Contribution Retirement System. After having made such election, the employee may not change such election or again become a member of the existing retirement system. Any member who does not select one (1) option or the other at the end of the sixty-five (65) month period, except as provided for in this Section, shall be deemed to have irrevocably elected to be a member in the existing system.

(c) Notwithstanding (a) and (b) above, for employment commencing prior to October 1, 2005, any employee whose employment is purely temporary, seasonal, intermittent or part-time may accept or reject membership and shall become a member only upon submission of a written request to the Board for membership; this option shall expire on October 1, 2005 at which time membership in the Defined Contribution Retirement System shall be mandatory unless the employee is eligible for readmission to the existing retirement system.

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SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 24-053:1 (June 25, 1997). Amended by P.L. 25-019:6 (May 14, 1999). Repealed and reenacted by P.L. 25-157:5 (July 10, 2000). Amended by P.L. 28-141:5 (July 18, 2006), effective retroactively as of Oct. 1, 2005.

2025 NOTE: The Compiler has corrected a manifest error in past publications regarding incorrect legislative history.

§ 8208. Members' Contributions.

(a) All contributions by the members shall be mandatory.

(b) From the operative date through December 31, 2017, contributions shall be equal to five percent (5%) of base pay. On and after January 1, 2018, contributions shall be equal to six and two tenths percent (6.2%) of base pay.

(c) Such reductions from base pay, although designated as member contributions, shall be deducted by the employer at the normal payroll intervals, shall be paid by the employer in lieu of contributions by the member, and shall be remitted within five working days to the insurance, annuity, mutual fund, or other qualified company or companies designated by the board to administer the operations of the Defined Contribution Retirement System. The employer shall deduct the member's mandatory contributions required by this Section from member's base pay on or after the first payroll interval following the latest of

(1) the enactment of this Article

(2) October 1, 1995, or

(3) a member's transfer to the Defined Contribution Retirement System pursuant to § 8207,

and the contributions so deducted shall be treated as employer contributions in determining federal tax treatment under Section 414 (h) of the United States Internal Revenue Code. The employer shall contribute or pay these member deducted contributions from the same source of funds which is used in paying base pay to the member.

(d) Member contributions deducted shall be treated for all purposes of the government of Guam Retirement Fund Defined Contribution Retirement System in the same manner and to the same extent as member contributions made prior to the date of deduction. All member contributions shall be immediately credited to an account or accounts established for the benefit of the member under a trust agreement.

(e) A summary plan description shall be issued to each member setting forth the terms and conditions under which contributions are received, and the investment and retirement options available to the member.

(f) The board shall promulgate within ninety (90) days after enactment of the law, pursuant to § 8205 of this Article, rules defining the minimum requirements for the investment and retirement options, including but not limited to:

(1) Lump sum distributions of members' accounts which do not exceed an amount established by the board;

(2) Joint and Survivor annuities;

(3) Other annuity forms;

(4) Variable annuities which gradually increase monthly retirement payments; provided, that said increased payments are funded solely by existing current value of the member's account at the time the member's retirement payments commence and not, to any extent, in a manner which would require additional employer or member contributions to any member's account after retirement or after the cessation of employment; and

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(5) The instances in which, if any, distributions or loans can be made from this on account balances prior to having attained the age of fifty-five.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 33-186:7 (Sept. 14, 2016).

2016 NOTE: Subsection designations were added and altered to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

2015 NOTE: Subsection designations were added and altered to adhere to the Compiler's alpha-numeric scheme pursuant to 1 GCA § 1606.

§ 8209. Employer Contributions.

(a) [No text]

(1) Each employer shall, pursuant to § 8208, make a contribution to each member's account with respect to each member whose employment commenced on or after October 1, 1995, or who transfers to the Defined Contribution Retirement System pursuant to § 8207, which is equal to five percent (5%) of such member's base pay. In addition, each participating employer shall match the first five percent (5%) of each member's base pay. On and after January 1, 2018, these contributions herein shall be increased to six and two tenths percent (6.2%) of such member's base pay.

(2) The amounts contributed herein shall vest in accordance with the vesting schedule set forth in of § 8210(c).

(b) Furthermore, prior to the adoption of welfare benefit plans for pre-retirement disability and survivor death benefits in Article 4 of this Chapter, each participating employer shall also make a contribution to the Ancillary Benefit Account for the sole purpose of financing pre-retirement disability insurance and survivor death insurance premiums, in an amount equal to a designated percentage of such member's base pay, the percentage to be determined on a quarterly basis by the Board within its sole discretion, in an amount not to exceed two percent (2%) of each member's base pay.

(c) Each participating employer shall ensure that its employer or member contributions are made within five (5) working days. In the case of an officer or an employee of the government of Guam, any unpaid employer contribution shall be a government debt, contracted as a result of a casual deficit in the government's revenues, to be accorded preferred status over other expenditures.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 23-045:IV:19 (Oct. 18, 1995). Repealed and reenacted by P.L. 25-157:6 (July 10, 2000). Amended by P.L. 26-162:9 (Dec. 31, 2002). Subsection (b) amended by P.L. 27-106:VI:38 (Sept. 30, 2004). Subsection (a) amended by P.L. 33-186:8 (Sept. 14, 2016).

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2016 NOTE: Subsection designations were added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

2011 NOTE: Pursuant to the authority granted by 1 GCA §1606, the reference to Title in subsection (b) was altered to reflect the existing codification structure.

§ 8209.1. Rollovers from Member's and Employer's Contributions Reserves.

(a) Rollover of Member's Contributions. Amounts transferred from the Member's Contribution Reserve in accordance with Subsection (a) of § 8164 of this Chapter shall be deposited to the member's account established for the benefit of the member under a trust agreement, and shall be fully vested, subject to the timing of distribution limitations set forth in the Defined Contribution Retirement System Plan and Trust Agreement.

(b) Rollover of Employer's Contributions. Amounts transferred from the Employer's Contribution Reserve to fund transfer incentive benefits in accordance with Subsection (b) of § 8164 of this Chapter shall

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be deposited in a Transfer Incentive Reserve established for the benefit of the member under a trust agreement. The Transfer Incentive Reserve shall be segregated from employer contributions, and an individual account shall be maintained for each member and include subsequent interest, dividends, and/or any other accumulations credited or debited on behalf of the member, and shall be fully vested, subject to the timing of distribution limitations set forth in the Defined Contribution Retirement System Plan and Trust Agreement.

SOURCE: Added by P.L. 25-019:8 (May 14, 1999). Repealed and reenacted by P.L. 25-157:7 (July 10, 2000).

§ 8209.2. Employees on Active Duty.

The government shall pay the employer's and member's Government of Guam Defined Contribution Retirement System contributions, group health insurance premiums, and group life insurance premiums for all officers and other employees of the government of Guam who are on leave without pay and on active duty with the Guam National Guard or the reserve components of any of the Armed Services of the United States. All agencies and departments of the government of Guam shall fund, from their respective annual budgets, the contributions for retirement, health insurance, and life insurance authorized by this Section. The provisions of this Section shall be effective October 1, 2004.

SOURCE: Added by P.L. 27-106:VI:39 (Sept. 30, 2004).

§ 8210. Termination of Membership. Vesting Schedule.

(a) A member's interest in the following shall be fully and immediately vested and nonforfeitable:

(1) members' contributions, pursuant to § 8208;

(2) rollover of member's contributions pursuant to Subsection (a) of § 8209.1, including amounts rolled over from other qualified retirement plans; and

(3) rollover of employer's contributions held in the Transfer Incentive Reserve pursuant to Subsection (b) of § 8209.1.

(b) A member's interest in the balance of that member's Employer Contribution Account described in § 8209 shall be fully and immediately vested and nonforfeitable upon the occurrence of any one (1) or more of the following events:

(1) the member's attainment of normal retirement age, as defined in the Defined Contribution Retirement System Plan Document while the member is employed by the government;

(2) the member's death while the member is employed by the government;

(3) the member's disability, as defined in the Defined Contribution Retirement System Plan Document, while the member is employed by the government; or

(4) the termination of all or a portion of the Defined Contribution Retirement System, including the Employer Contribution Account.

(c) In addition to the events described in Subsection (b), a member's interest in the balance of that member's Employer Contribution Account described in § 8209 shall be fully and immediately vested and nonforfeitable upon the member's completion of five (5) or more years of employment pursuant to § 8201(e), and as described in the Defined Contribution Retirement System Plan Document.

(d) Upon a member's termination of employment, all nonvested amounts shall constitute a forfeiture as of the date of termination of employment and shall be transferred and maintained in a suspense account pursuant to Subsection (e).

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(e) The remaining balance, if any, in the member's account after the distribution shall be credited to a suspense account. Any account balances credited to the suspense account shall be maintained by the board for a period of five (5) years following termination of the member's employment. In the event that the member does not return to the employ of the employer within said five (5) years, the amount attributable to such member shall be released from the suspense account and shall be first applied to the payment of the plan's administrative expenses authorized by § 8217 of this Chapter. Any remaining balance shall be applied to employer contributions in future years. The aggregate amount of forfeitures released from the suspense account at the end of each fiscal year, after deducting the payment of the plan's administrative expenses authorized by § 8217 of this Chapter, will be applied as contributions of contributing employers in proportion to the aggregate amount of contributions made by the contributing employer for the five (5) fiscal years ending with the fiscal year in which the forfeitures are released from the suspense account bears to the total contributions made by all contributing employers for the same five (5) fiscal year period. Upon certification to the several contributing employers of the aggregate account balances plus earnings thereon which have been irrevocably forfeited pursuant to this § 8210, the several contributing employers shall be permitted in the next succeeding fiscal year, or years, to reduce their total aggregate contribution requirement pursuant to § 8209 of this Article, for the then current fiscal year by an amount equal to the aggregate amounts irrevocably forfeited and certified as such to each contributing employer, if any balance remains after deducting the payment of the plan's administrative expenses authorized by § 8217 of this Chapter.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 25-019:9 (May 14, 1999). Repealed and reenacted by P.L. 25-157:8 (July 10, 2000). Subsection (e) amended by P.L. 26-013:1 (May 18, 2001). Subsections (b) and (c) amended by P.L. 26-162:10-11 (Dec. 31, 2002). Title amended by P.L. 28-141:6 (July 18, 2006).

§ 8211. Distributions Following Termination of Employment.

(a) Normal and Early Retirement. At any time after a member reaches the early retirement age of fifty-five (55) years and has completed five (5) years of employment for vesting purposes, or reaches the normal retirement age of sixty-five (65) years, that person may elect to receive retirement benefits by notifying the Board, or its designee, in writing, of such intention not less than sixty (60) days prior to the effective date of retirement. Retirement payments shall commence as soon as practicable after retirement in accordance with the Defined Contribution Retirement System Plan Document.

(b) Disability. In the event of disability, a member may elect to receive a distribution of the member's vested account balances as soon as practicable after termination of employment due to disability as defined in the Defined Contribution Retirement System Plan Document; provided, that any distribution of the member's vested account balances will render the member ineligible to receive any pre-retirement benefits provided under any long-term disability insurance policy issued pursuant to § 8213 or Article 4 of this Chapter. In the event of disability after termination of employment, a member may elect to receive a distribution of that member's vested account balances as soon as practicable after certification of said disability in accordance with the Defined Contribution Retirement System Plan Document.

(c) Death. In the event of a member's death, distribution of the member's vested account balances to the member's beneficiaries shall be made as soon as practicable after death in accordance with the Defined Contribution Retirement System Plan Document.

(d) Other Termination of Employment. In the event of termination of employment for reasons other than retirement, disability or death, a member may elect to receive a distribution of the member's vested account balances as soon as practicable after termination of employment.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Repealed and reenacted by P.L. 25-157:9 (July 10, 2000). Amended by P.L. 26-162:12 (Dec. 31, 2002), P.L. 28-141:7 (July 18, 2006), effective retroactively as of Oct. 1, 2005.

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2014 NOTE: Pursuant to the authority granted by 1 GCA §1606, the reference to Title in subsection (b) was altered to reflect the existing codification structure.

§ 8212. Amount of Benefit Payments.

(a) The amount of benefit payments a retired member shall receive shall be based solely upon the balance in the member's account at the date of retirement, the retirement option selected, the actuarial life expectancy of the member, and such other factors as normally govern annuity payments.

(b) The board, or its designee, is authorized upon retirement of a member, upon the election of that member, to purchase an annuity for the member upon his or her retirement.

§ 8213. Supplemental Annuity Contracts.

The board shall authorize the private pension, insurance, annuity, mutual fund, or other qualified company or companies with whom it contracts to make available to members such supplemental annuity options, disability and other insurance or benefits.

§ 8214. Account Statements.

The Board shall prepare, or cause to be prepared, on a quarterly basis, an account statement for each member's account, to include the amount of the member's contributions, employer contributions, rollover contributions and amounts maintained in the transfer incentive reserve, plus interest, dividends and/or other accumulations credited or debited on behalf of the member. The statement shall include, but not be limited to, a statement of the current market value of the members' account. The Board shall prescribe the form and content of the account statement consistent with the provisions of this Section.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Repealed and reenacted by P.L. 25-157:10 (July 10, 2000).

§ 8215. Years of Employment Service For Vesting Purposes.

A member of the Government of Guam Defined Contribution Retirement System who leaves government service with a participating employer and does not withdraw any funds from his or her account and becomes reemployed with a participating employer within five years shall retain his or her previous years of employment services for vesting purposes of the provisions of § 8210.

§ 8216. Right To Benefits Not Subject to Execution, etc.

The right of any person to a benefit provided for in this Article shall not be subjected to execution, attachment, garnishment, the operation of bankruptcy or insolvency laws, or other process whatsoever, nor shall any assignment thereof be enforceable in any court, except court orders that relate to the provision or payment of child support, spousal support, or distribution of marital property to a spouse, child or other tax dependent issued pursuant to Guam's or another jurisdiction's domestic relations law.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 28-141:8 (July 18, 2006),effective "retroactively to the date of any applicable court orders."

§ 8217. Administrative Expenses.

(a) Fees Or Charges Paid By Participants. The Board of Trustees may provide for administrative fees or charges to be paid by participants in the following manner:

(1) For fiscal years beginning October 1, 1995, and October 1, 1996, the Board of Trustees may assess an amount up to four percent (4%) of the employer and member contributions.

(2) For fiscal years beginning October 1, 1997, and thereafter, the Board of Trustees may assess an amount up to two percent (2%) of the employer and member contributions.

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(b) Any amounts collected under § 8217(a), but not needed for administrative expenses, including start-up costs of the plan, shall be allocated to member accounts.

(c) Use of Forfeitures. For fiscal years beginning October 1, 2001 and thereafter, the Board of Trustees shall use the aggregate amount of forfeitures released from the suspense account described in § 8210(e) at the end of each fiscal year to pay for the plan's administrative expenses, including start-up costs of the plan, and to reduce administrative fees or charges paid by participants under § 8217(a).

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Subsection (c) added by P.L. 26-013:2 (May 18, 2001). Amended by P.L. 28-141:9 (July 18, 2006), effective retroactively to Oct. 1, 2001.

§ 8218. Implementation.

The Board of Trustees will be responsible for implementation of the new defined contribution plan and the completion of the following implementation steps:

(a) Establishment of procedures to withhold member and employer contributions and transferring of such contributions to a temporary investment account with respect to employees hired after September 30, 1995. This step is to be completed within one (1) month of the enactment of the enabling legislation.

(b) Preparation of request for proposal (RFP) for investment management and plan administration services. This step is to be completed within two (2) months of enactment of the enabling legislation.

(c) Proposals for the provision of investment management and plan administration services to be received by the Board of Trustees. This step is to be completed within six (6) months of enactment of the enabling legislation.

(d) Review of proposals and selection of investment managers and plan administrators. This step is to be completed within six (6) months of enactment of the enabling legislation.

(e) Development and distribution of appropriate plan summary, and enrollment/investment election materials to post-September 30, 1995, hires. This step is to be completed within eight (8) months of enactment of the enabling legislation.

(f) Election materials returned and processed and funds currently held in temporary investment account allocated to appropriate investment funds per the election of the member. This step is to be completed within ten (10) months of enactment of the enabling legislation.

(g) Development and distribution of appropriate plan summary, benefit projection illustrations and enrollment/investment election materials to pre-October 1, 1995, hires. This step is to be completed within thirty-six (36) months of enactment of the enabling legislation.

(h) Process pre October 1, 1995, hire elections, transfer accumulated member contributions from existing retirement system to defined contribution plan or calculate frozen accrued benefits in existing retirement plan as appropriate. This step is to be completed within sixty-five (65) months of enactment of enabling legislation, except for the steps related to transfer elections as provided in § 8207.

SOURCE: Added by P.L. 23-042:3 (Sept. 29, 1995). Amended by P.L. 24-053:2 (June 25, 1997). Subsection (h) amended by P.L. 25-019:7 (May 14, 1999), repealed and reenacted by P.L. 25-157:11 (July 10, 2000).

2025 NOTE: The Compiler has corrected manifest errors in past publications regarding incorrect legislative history.

§ 8219. Lump Sum for Sick Leave Not Utilized.

[Repealed.]

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SOURCE: Original § 8219 dealing with "Deferred Compensation" repealed by P.L. 24-268:2 (Aug. 17, 1998). Current section added by P.L. 25-157:12 (July 10, 2000). Repealed by P.L. 26-086:2 (May 17, 2002) and replaced by 4 GCA § 4108(h).

ARTICLE 3
DEFERRED COMPENSATION PROGRAM

SOURCE: Entire Article added by P.L. 24-268:3 (Aug. 17, 1998).

§ 8301. Definitions.
§ 8302. Establishment of the Government of Guam Deferred Compensation Program; Participation in Government Guam Deferred Compensation Program; Limiting Participation in Existing § 457 Plans.
§ 8303. Article to be Liberally Construed; Purpose.
§ 8304. Administration of the Government of Guam Deferred Compensation Program.
§ 8305. Powers and Duties of the Board of Trustees and the Director of the Government of Guam Retirement System in the Administration of the Deferred Compensation Program.
§ 8306. Members' Contributions.
§ 8307. Payment of Administrative Cost and Expenses.
§ 8308. Amount of Benefit Payments.
§ 8309. Account Statements.

§ 8301. Definitions.

As used in this Article, unless the context otherwise requires:

(a) "Deferred Compensation Program" or "Program" means the government of Guam Deferred Compensation Program created and established by this Article.

(b) "Board of Trustees" or "Board" means the Board of Trustees of the government of Guam Retirement Fund, which is responsible for the direction and operation of the affairs and business of the Program. Title to all assets and income of the program shall be held in trust by the Board or by a Qualified Custodian for the exclusive benefit of members and their beneficiaries.

(c) "Code" means the United States Internal Revenue Code, as amended, and corresponding references to the Guam Income Tax Code, as may be appropriate.

(d) "Director of the Government of Guam Retirement System" or "Director" means the Director of the Government of Guam Retirement Fund as appointed by the Board in accordance with § 8140 of Article 1, Chapter 8 of Title 4 of the Guam Code Annotated.

(e) "Member of the Government of Guam Deferred Compensation Program" or "Member" means any person who is employed by an Employer in the government of Guam and who is a member of either the Government of Guam Retirement Fund established in Article 1 of this Chapter or the Government of Guam Defined Contribution Retirement System established in Article 2 of this Chapter, with the exception of any person who participates under a Code § 403(b) plan sponsored by the employer.

(f) "Employer" or "Employer Unit" means the following government entities, organizations or departments that are organized and operated in Guam: each and every line department or agency of the Executive Branch, every autonomous and semi-autonomous agency or instrumentality, every public corporation, every educational institution, whether secondary or post-secondary, the Legislative

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Branch, the Judicial Branch, the Public Defender Corporation and every public entity hereafter to be created by law, within Guam which has employed or employs a member.

(g) "Qualified Custodian" means a bank as described in Code § 408(n), or person other than a bank that satisfies the requirements of Paragraphs (2)-(6) of U.S. Treasury Regulations 211.408-2(e), or the Board in its capacity as trustee of the Program in accordance with Code § 457(g).

(h) "Section 457" means §457 of the United States Internal Revenue Code, as amended, and corresponding references to the Guam Territorial Income Tax Code, as may be appropriate.

2014 NOTE: Pursuant to the authority granted by 1 GCA §1606, the reference to Title in subsection (e) was altered to reflect the existing codification structure.

2025 NOTE: Reference to "Territorial" omitted pursuant to 1 GCA § 420.

§ 8302. Establishment of the Government of Guam Deferred Compensation Program; Participation in Government of Guam Deferred Compensation Program; Limiting Participation in Existing § 457 Plans.

(a) There shall be established the Government of Guam Deferred Compensation Program, hereinafter referred to as "Program," to which member contributions, in the form of deductions from salary, shall be deposited and to which earnings on investments and other contributions shall also be deposited upon receipt and from which benefits and reasonable administrative fees and expenses authorized by the Board of Trustees shall be paid.

(b) Voluntary Participation. Each member's participation in the Program shall be completely voluntary. At the request of a member of the Deferred Compensation Program, the employer shall by payroll deduction defer the payment of part of the compensation of the member. The amount to be deferred must be as provided in a written agreement timely executed by and between the member and his or her employing unit. This agreement shall be in a form as prescribed by the Director of the Government of Guam Retirement System, approved by the Board of Trustees, and in compliance with the requirements of Code § 457.

(c) Employer's Failure to Implement Program. Implementation of the Deferred Compensation Program by the employer must be completed within thirty (30) days of the member's request as provided in Subsection (b). Beginning on the date of enactment, the Government of Guam Deferred Compensation Program shall be the single § 457 program receiving payroll deductions representing elective deferrals of the compensation of any member of an employer unit other than an employer unit which had established a § 457 program and was receiving payroll deductions prior to the date of enactment. Such excepted employer unit may defer compensation under its existing 457 deferred compensation plan through December 31, 1998. Payroll deductions representing § 457 elective deferrals of any employee of an excepted employer unit must be remitted to the Qualified Custodian of the Government of Guam Deferred Compensation Program after December 31, 1998. The Board of Trustees may order any employer to implement the Deferred Compensation Program provided for in this Section upon receipt of a member's approved request to undertake that implementation and may enforce that order in appropriate legal proceedings.

§ 8303. Article to be Liberally Construed; Purpose.

The provisions of this Article shall be liberally construed so as to provide a Deferred Compensation Program for any member which is funded on a current basis from elective member contributions.

§ 8304. Administration of the Government of Guam Deferred Compensation Program.

The Board of Trustees created pursuant to Article 1 of Chapter 8 of this Title shall administer the Government of Guam Deferred Compensation Program. The Board may sue and be sued, contract and be

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contracted with, and conduct all the business of the Deferred Compensation Program in the name of the Government of Guam.

§ 8305. Powers and Duties of the Board of Trustees and the Director of the Government of Guam Retirement System in the Administration of the Deferred Compensation Program.

(a) Adoption of Formal Written Plan and Trust Arrangement. The Board of Trustees shall be responsible for the adoption of a formal written plan setting forth all the terms and conditions of the Program, and any plan amendments which from time to time the Board of Trustees shall determine to be required, in order that the Plan shall comply with and remain in compliance with Code § 457. The Board of Trustees, on behalf of the Government of Guam and all of its Employers, shall be authorized and empowered to take any and all required action, including, but not limited to, entering into annuity contracts, trust agreements and custodial arrangements, all of which shall be intended to satisfy the requirements of Code § 457(g) or to implement the Program.

(b) Exclusive Jurisdiction. The Board of Trustees shall have exclusive original jurisdiction in all matters relating to or affecting the Program, including, but not limited to, claims for benefits and refunds under this Article.

(c) Approval of Rules, Regulations and Administrative Procedures. The Board of Trustees shall consent to and approve such rules, regulations, administrative procedures and prescribed forms as established by the Director, as it may deem necessary to effectuate the purposes of this Article, all of which shall conform to Code § 457, Federal tax laws, U.S. Treasury Regulations, and rulings.

(d) Administrative Contracts. The Board of Trustees may contract with insurance, annuity, mutual fund, trust company or other qualified company or companies to administer the operations of the Program. In addition, the Board of Trustees shall also be authorized and empowered to take any and all additional actions, including, but not limited to, the execution of custodial, record keeping, and investment advisory agreements in order to implement the Program.

(e) Investments. The Board of Trustees may solicit bids for investment options and may retain consulting services to assist it in soliciting and evaluating bids and in the periodic review of companies offering investment options.

(1) The Board of Trustees may annually establish a budget for its costs in the soliciting, evaluating and periodic review process of companies offering investment options, and may charge a proportional share of all costs related to the periodic review to each such company currently under contract and charge a proportional share of all costs related to soliciting and evaluating bids to each such company offering investment options which is selected by the Board of Trustees.

(A) Contracts must provide that any investment options are offered to members in an unbiased manner, in a manner that conforms to rules adopted by the Director, and without unreasonable solicitation.

(B) The contract must not permit any person to jeopardize the tax-deferred status of money invested by members under this Article.

(2) The Board of Trustees shall invest and reinvest the monies of the Program and manage the assets and income of the Program:

(A) solely in the interest of, and for the exclusive purposes of providing benefits to, members and their beneficiaries, and defraying reasonable expenses of administering the Program;

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(B) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and

(C) in a manner that diversifies the investments of the Program as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances prudent not to do so.

(3) Notwithstanding any other provision of this Article, and except as otherwise expressly restricted by the Organic Act of Guam and by the law, the Board of Trustees may delegate its authority to invest and/or manage the assets and income of the Program, provided that the Board of Trustees shall exercise reasonable care, skill and caution in:

(A) selecting an agent;

(B) establishing the scope and terms of the delegation, consistent with the purposes and terms of the Program; and

(C) periodically reviewing the agent's performance and compliance with the terms of the delegation.

(f) Member Accounts. The Board of Trustees shall establish an individual account(s) for each Member, to which his or her respective contributions, together with all earnings on investments shall be deposited, and from which his or her respective benefits under this Program and his or her respective pro-rata share of reasonable administrative fees and expenses, as authorized by the Board of Trustees, shall be paid.

(g) Advisors. The Board of Trustees may engage actuarial, legal, clerical and all other advisors, including, but not limited to, a Qualified Custodian as described by § 8301(g) of this Article, as may be necessary to effectuate the purposes of this Article.

(h) Duties of Employer. The Board of Trustees shall confirm that all duties under this Article of each employer are being performed and, in the event that an employer fails to perform any duty imposed on said employer under the provisions of this Article, to take such steps as in its judgment seem advisable to enforce compliance by the employer with the provisions of this Article.

(i) Supervised Contributions. The Board of Trustees shall confirm that all member contributions by way of salary deductions are remitted to the appropriate Qualified Custodian of the Program, and shall certify to each employer the amount to be deducted from each member's salary.

(j) Records. The Board of Trustees shall cause to be maintained adequate accounting records that reflect the financial condition of the Program, and such additional data as is necessary or required for the operation of the Program.

2018 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

2014 NOTE: The subsection designations in subsection (e) were altered to adhere to the Compiler's alpha-numeric scheme, in accordance with the authority granted by 1 GCA § 1606.

§ 8306. Members' Contributions.

(a) Deductions from Salary. Member contributions in the form of deductions from salary shall not exceed the limits prescribed by Code § 457, as amended. The employer shall contribute or pay these member deducted contributions from the same source of funds which is used in paying base pay to the members. Such member contributions shall be deducted from his or her salary by the employer and immediately credited to such member's account and/or accounts at the normal payroll intervals, and shall be remitted to the Qualified Custodian designated by the Board of Trustees to receive such contributions of

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the Program, no later than ten (10) working days from the date on which such amount would otherwise have been payable to the member in cash.

(b) Purchase of Shares. The amount of compensation so deferred may be used to purchase such forms of investments which are prescribed by the Board of Trustees. Included among such forms of investments which may be provided are:

(1) shares in mutual funds or other managed investment portfolios selected by the Board of Trustees; or

(2) annuity contracts from an insurance company selected by the Board of Trustees, which company is licensed to contract business on Guam and is subject to regulation by the Director of Revenue and Taxation; or

(3) a combination of (1) and (2).

The shares or contracts purchased shall stand in the name of the Qualified Custodian designated by the Board of Trustees for the member whose deferred compensation purchased the shares or contracts until distributed to the member in a manner agreed upon by the member and the Board of Trustees and in accordance with the terms of the deferred compensation plan. The government of Guam, the Board of Trustees, political subdivision, or other employer is not responsible for any loss that may result from investment of the Member's deferred compensation.

§ 8307. Payment of Administrative Cost and Expenses.

(a) Subject to the approval of the Board of Trustees, the Director shall develop and establish a procedure by which common administrative expenses shared among the Government of Guam Retirement Fund, the Government of Guam Defined Contribution System and the Program, taking into account such factors, including, but not limited to, the number of members and plan asset values that may be prorated among such retirement plans.

(b) [No text]

(1) In accordance with such procedure, the Qualified Custodian, as selected by the Board of Trustees, shall allocate all of the administrative, custodial, record keeping, and investment management costs and expenses associated with the Program, other than the costs described in § 8305(e) relating to the soliciting, evaluating and periodic review of companies offering investment options, against the assets and investment income accumulated pursuant to this Article. The amount of administrative costs and expenses which are to be appropriated from the fund or member's account in accordance with this Section shall also include the costs of the Board of Trustees and the Director which are incurred in administering the Program, including, but not limited to, fees of counsel, actuaries, accountants or other experts appointed to provide services with respect to the Program and payroll expenses of persons on the payroll of the Board of Trustees or the Retirement Fund who are employed to perform services with respect to the Program.

(2) The Board of Trustees is authorized and instructed to borrow from the Government of Guam Retirement Fund on behalf of the Deferred Compensation Program, the amounts necessary to pay the administrative costs and expenses of the Board of Trustees and the Director pending the appropriation of such costs from the fund or the members' accounts. Such borrowed amounts shall be repaid to the Government of Guam Retirement Fund as soon as possible following the Board of Trustee's receipt of the appropriated reimbursements together with a reasonable rate of interest based upon the investment return which the Government of Guam Retirement Fund could have obtained through an alternative investment of such monies.

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2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2018 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

2015 NOTE: The reference in subsection (b) to § 8305(a)(5) was determined by the Compiler to be manifest error, as § 8305(a)(5) was never enacted. Pursuant to the authority granted by 1 GCA § 1606, the reference was altered to § 8305(e), which addresses costs for retaining consulting services to assist with "the soliciting, evaluating and period review process of companies offering investment options."

§ 8308. Amount of Benefit Payments.

(a) The amount of benefit payments that a retired member shall receive shall be based solely upon the balance in the member's deferred compensation plan account at the date of retirement, the retirement option selected, the actuarial life expectancy of the member, if applicable, and such other factors as normally govern annuity payments.

(b) The Board of Trustees, or its designee, is authorized upon retirement of a member, upon the election of that member, to purchase an annuity for the member upon his or her retirement.

(c) In accordance with 7 GCA § 23111, no amount of deferred compensation is assignable or subject to execution, levy, attachment, garnishment or other legal process.

§ 8309. Account Statements.

The Board of Trustees shall prepare or cause to be prepared, on a quarterly basis, an account statement for each member's account. The statement shall include, but shall not be limited to, a statement of the current market value of the member's account. The Board of Trustees shall prescribe the form and content of the account statement, which shall be consistent with the provisions of this Section.

ARTICLE 4
WELFARE BENEFIT PLANS

SOURCE: Entire Article added by P.L. 26-162:13 (Dec. 31, 2002).

§ 8401. Definitions.
§ 8402. Welfare Benefit Plans Created and Established; Body Corporate.
§ 8403. Article to be Liberally Construed; Purpose.
§ 8404. Administration of the Welfare Benefit Plans.
§ 8405. Powers and Duties of the Board of Trustees.
§ 8406. Participation in the Welfare Benefit Plans.
§ 8407. Employer's Contributions.

§ 8401. Definitions.

As used in this Article, unless the context otherwise requires:

(a) "Base Pay" means an employee's stated rate of pay;

(b) "Board" means the Board of Trustees of the Government of Guam Retirement Fund, which also is responsible for the direction and operation of the affairs and business of the Defined Contribution Retirement System. Title to all assets in the welfare benefit plans created herein shall be held in the name of the Board for the benefit of participants in the welfare benefit plans herein;

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(c) "Defined Contribution Retirement System" means the Government of Guam Defined Contribution Retirement System created by Article 2 of Chapter 8 of Title 4 of the Guam Code Annotated;

(d) "Employer contribution" means an amount deposited into a welfare benefit account, on a periodic basis coinciding with the employee's base payroll period, by an employer from its own funds, the balances of which shall be used solely for the payment of insurance premiums associated with the welfare benefit plans established hereunder, including pre-retirement disability and survivor death benefits offered to members of the Defined Contribution Retirement System;

(e) "Employer" means each and every line department or agency of the Executive Branch; every autonomous and semi-autonomous agency or instrumentality; public corporations; every educational institution, whether secondary or post-secondary; the Judicial Branch; the Legislative Branch; Public Defender Corporation; and every public entity hereafter to be created by law, within Guam which has employed, or employs, a member;

(f) "Member" means any member of the Defined Contribution Retirement System in accordance with Article 2, Chapter 8 of Title 4 of the Guam Code Annotated;

(g) "Welfare Benefit Account" means an employee welfare benefit account created and established by this Article as a pool account established for all members to record the deposit of employer contributions, interest and other accumulations credited on behalf of all members, the balances of which shall be used solely for the payment of insurance premiums and administrative expenses associated with the welfare benefits, including pre-retirement disability and survivor death benefits offered to members of the Defined Contribution Retirement System;

(h) "Welfare benefit plan" means any employee welfare benefit plan created and established by this Article, including plans providing for pre-retirement disability benefits or survivor death benefits, which shall be offered to members of the Defined Contribution Retirement System, as provided in the contracts negotiated with insurance providers.

§ 8402. Welfare Benefit Plans Created and Established; Body Corporate.

The Welfare Benefit Plans for Defined Contribution Retirement System members as described herein shall be created and established to provide employee welfare benefits as reasonable and necessary to fulfill the purposes of this Article. The business of each welfare benefit plan created hereunder shall constitute a body corporate and all business of each welfare benefit plan shall be transacted in the name of the Government of Guam Defined Contribution Retirement System for the benefit of its members.

§ 8403. Article to be Liberally Construed; Purpose.

The provisions of this Article shall be liberally construed so as to provide, to the extent practicable, similar, although not necessarily equal, pre-retirement disability and survivor death benefits as those provided to members of the Defined Benefit Plan, and to provide other employee welfare benefits to members of the Defined Contribution Retirement System, which benefits are fully funded on a current basis from employer contributions, with the objective of encouraging qualified personnel to enter and remain in the service of the government of Guam, thus effecting economy and efficiency in the administration of the government.

§ 8404. Administration of the Welfare Benefit Plans.

The Board of Trustees created pursuant to Article 1 of Chapter 8 of this Title, and authorized under Article 2 of Chapter 8 of this Title, shall administer the welfare benefit plans for members of the

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Government of Guam Defined Contribution Retirement System. The board may sue and be sued, contract and be contracted with and conduct all the business of the welfare benefit plans.

§ 8405. Powers and Duties of the Board of Trustees.

The Board has all powers necessary to effectuate the purposes of this Article.

(a) The Board is authorized and empowered to take any and all required action, including, but not limited to,

(1) making decisions concerning plan design and adoption of the plan,

(2) entering into contracts with third parties for actuarial, insurance, custodial, annuity, legal and administrative, and other products and services,

all of which shall be intended to implement the welfare benefit plans consistent with the intent of this Article.

(b) The Board shall authorize the company or companies with whom it contracts to make available the welfare benefits under the plans adopted herein.

(c) The Board may borrow monies to effectuate the purposes of this Article, including, but not limited to, monies loaned from the Government of Guam Retirement Fund for interim financing for survivor death insurance and pre-retirement disability insurance premiums offered to members of the Defined Contribution Retirement System.

2018 NOTE: Subsection designations added pursuant to the authority of 1 GCA § 1606.

§ 8406. Participation in the Welfare Benefit Plans.

Members of the Defined Contribution Retirement System are eligible to participate in the welfare benefit plans established hereunder.

§ 8407. Employer's Contributions.

(a) Each participating employer shall make a contribution to the applicable welfare benefit account for the sole purpose of financing insurance premiums and administrative expenses related to the welfare benefit plans established under this Article, including pre-retirement disability insurance and survivor death insurance, in aggregate amounts equal to a designated percentage of such member's base pay, the percentage to be determined on a quarterly basis by the Board within its sole discretion, in an aggregate amount not to exceed eight-tenths of one percent (0.8%) of each member's base pay.

(b) Each participating employer shall ensure that its employer contributions are made within five (5) working days. In the case of an officer or an employee of the government of Guam, any unpaid employer contribution shall be a government debt, contracted as a result of a casual deficit in the government's revenues, to be accorded preferred status over other expenditures.

ARTICLE 5
DEFINED BENEFIT 1.75 RETIREMENT SYSTEM

SOURCE: Article 5 added by P.L. 33-186:3 (Sept. 14, 2016).

2018 NOTE: P.L. 33-186:6 (Sept. 14, 2016) included an uncodified provision regarding the applicability of Social Security coverage and the effect of such coverage, as follows:

> Section 6. Social Security Option. If the government of Guam is authorized to extend Social Security coverage to government of Guam employees on a prospective basis, whether through one (1) or several voluntary agreements or through a specific statutory provision authorizing such extension, then all employees hired on or

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after the effective date or dates from which such coverage is extended shall be enrolled into Social Security and shall not be eligible for the Defined Benefit 1.75 Retirement System or the Guam Retirement Security Plan.

§ 8501. Definitions.
§ 8502. Establishment of the Government of Guam Defined Benefit 1.75 Retirement System; Membership in DB 1.75 Retirement System.
§ 8503. Defined Benefit 1.75 Plan Member Basic Retirement Annuity.
§ 8504. Transfer of Member Accounts from Defined Contribution System; Transfer of Excess Account Balance, If Any.
§ 8505. Defined Benefit 1.75 Plan Member Disability Retirement Annuity.
§ 8506. Defined Benefit 1.75 Plan Member Death and Survivors Benefits.
§ 8507. Defined Benefit 1.75 Plan Member Contributions to Fund.
§ 8508. Deferred Compensation Program.

§ 8501. Definitions.

As used in this Article, unless the context otherwise requires:

(a) "Actuarial Cost of Credited Service" means a percentage of historical base salary corresponding to the service for which a member's account is credited with employer contributions under the Defined Contribution Retirement System through the date preceding the member's transfer to the Defined Benefit 1.75 Retirement System. The applicable percentage shall be specified by the Board based on an actuarial review of the cost of credited service. The same percentage shall apply to all members.

(b) "Board of Trustees" or "Board" means the Board of Trustees of the government of Guam Retirement Fund, which is responsible for the direction and operation of the affairs and business of the Defined Benefit 1.75 Retirement System.

(c) "Code" means the United States Internal Revenue Code of 1986, as amended, and corresponding references to the Guam Income Tax Code, as may be appropriate.

(d) "Deferred Compensation Program" means the government of Guam Deferred Compensation Program established and operated in accordance with Article 3 of this Chapter and inclusive of modifications in the terms and conditions of the Deferred Compensation Program applicable to the members of the Defined Benefit 1.75 Retirement System under this Article 5.

(e) "Defined Contribution System" means the government of Guam Defined Contribution Retirement System established and operated in accordance with Article 2 of this Chapter and inclusive of modifications in the terms and conditions of the Defined Contribution Retirement System applicable to the members of the Defined Benefit 1.75 Retirement System under this Article 5.

(f) "Director" means the Director of the government of Guam Retirement Fund as appointed by the Board in accordance with § 8140 of Article 1, Chapter 8, Title 4 of the Guam Code Annotated.

(g) "Employer" means each and every line department or agency of the Executive Branch, every autonomous and semi-autonomous agency or instrumentality, every public corporation, every educational institution, whether secondary or post-secondary, the Legislative Branch, the Judicial Branch, the Public Defender Corporation, and every public entity hereafter to be created by law within Guam that has employed or employs a member.

(h) "Excess Account Balance" means the amount by which a member's account balances in § 8208 (Member's Contributions) and § 8209.1(a) (Rollover of Member's Contributions from § 8164(a)) of this Chapter exceeds the member's Actuarial Cost of Credited Service.

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(i) "Existing Retirement System" means the government of Guam Retirement Fund established and operated in accordance with Article 1 of this Chapter and exclusive of modifications in the terms and conditions of the Existing Retirement System applicable to the members of the Defined Benefit 1.75 Retirement System under this Article 5.

(j) "Defined Benefit 1.75 Retirement System" or "DB 1.75 Plan" means the government of Guam Defined Benefit 1.75 Retirement System established and operated under this Article 5. The Defined Benefit 1.75 Retirement System shall consist of the mandated and coordinated participation of members in two separate and preexisting retirement programs:

(1) the Retirement Fund established and maintained under Article 1, Chapter 8, Title 4 of the Guam Code Annotated; inclusive of the modifications to the terms and conditions of the Retirement Fund for Defined Benefit 1.75 Plan members as set forth in this Article 5; and

(2) the Deferred Compensation Program established and maintained under Article 3, Chapter 8, Title 4 of the Guam Code Annotated.

(k) "Member" or "Defined Benefit 1.75 Plan member" means any person who meets the eligibility requirements for membership in the Defined Benefit 1.75 Retirement System as described in § 8502 and participates in the Defined Benefit 1.75 Retirement System.

(l) "Retirement Fund" means the government of Guam Retirement Fund established and operated in accordance with Article 1 of this Chapter and inclusive of the modifications in the terms and conditions of the Existing Retirement System applicable to members of the Defined Benefit 1.75 Retirement System under this Article 5.

(m) "Public safety and law enforcement officers" means Guam Police Department Officers; Guam Fire Department Firemen; Customs and Quarantine Officers of the Customs and Quarantine Agency; Conservation Officers, Commodity Inspectors, and Entomologists of the Department of Agriculture; Guam Park Patrol Officers of the Department of Parks and Recreation; Corrections Officers and Parole Officers of the Department of Corrections; Airport Police Officers and Security Personnel at the Antonio B. Won Pat International Airport Authority, Guam; Jose D. Leon Guerrero Commercial Port Security personnel; Marshals of the Supreme Court of Guam and the Superior Court of Guam; Probation Officers of the Judiciary of Guam; and Firefighters of the Antonio B. Won Pat International Airport Authority, Guam; Youth Service Workers of the Department of Youth Affairs engaged in juvenile detention and rehabilitation; Inspectors and Investigators in the Office of the Attorney General; and Inspectors and Investigators in the Department of Revenue and Taxation.

SOURCE: Added by P.L. 33-186:3 (Sept. 14, 2016). Subsection (m) added by P.L. 37-007:2 (April 12, 2023), effective retroactively as of Dec. 27, 2022, pursuant to P.L. 37-007:5.

2025 NOTE: Reference to "Territorial" omitted and/or replaced with "Guam" pursuant to 1 GCA § 420.

§ 8502. Establishment of the Government of Guam Defined Benefit 1.75 Retirement System; Membership in DB 1.75 Retirement System.

(a) Defined Benefit 1.75 Retirement System.

(1) Beginning January 1, 2018, the government of Guam Defined Benefit 1.75 Retirement System shall be established hereunder and System shall be comprised of membership under the government of Guam Retirement Fund established under Article 1 of this Title and the Deferred Compensation Program established under Article 3 of this Title. The Defined Benefit 1.75 Retirement System does not comprise a separate fund or trust for members thereunder, but is the coordinated participation on a mandatory basis at specified benefit levels in the Retirement Fund and voluntary basis at specified benefit levels in the Deferred Compensation Program.

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(2) Beginning January 1, 2018, the Defined Benefit 1.75 Retirement System shall be the retirement program for employees who timely elect to participate in the Defined Benefit 1.75 Retirement System. Members of the Defined Contribution System whose employment continues beyond December 31, 2017, shall continue to contribute to and participate in the Defined Contribution System without change in provisions or benefits, except as provided from time to time under the Defined Contribution System.

(b) Membership in Retirement Fund.

(1) Defined Benefit 1.75 Plan Election by New Employees in Defined Contribution System.

(A) [No text]

(i) All new employees whose employment commences between April 1, 2017 and December 31, 2017, inclusive, and who satisfy the eligibility requirements for membership under §§ 8105 and 8106, may elect to participate in the Retirement Fund as "Defined Benefit 1.75 Plan members" in accordance with such eligibility requirements. No additional new employees shall be admitted to the Existing Retirement System on or after January 1, 2018, except as provided hereunder or provided from time to time under the Existing Retirement System.

(ii) Further, all new employees whose employment commences on or after January 1, 2024, and who satisfy the eligibility requirements for membership under §§ 8105 and 8106, may elect to participate in the Retirement Fund as Defined Benefit 1.75 Plan members in accordance with such eligibility requirements, by making the appropriate election with the Defined Benefit 1.75 Retirement System in the form and manner as determined by the Board during the election period commencing on an employee's date of employment and ending one (1) month thereafter. Employees who elect to participate in the Retirement Fund as Defined Benefit 1.75 Plan members pursuant to § 8502(b)(1) may not change such election and shall not be eligible to be a member of the Defined Contribution System.

(B) Members of the Existing Retirement System whose employment continues beyond December 31, 2017, shall continue to contribute and participate in the Existing Retirement System without change in provisions or benefits, except as provided from time to time under the Existing Retirement System.

(C) [No text]

(i) Except for those members who elect to participate in the Defined Benefit 1.75 Retirement System pursuant to § 8502(b)(2), any new employee hired after January 1, 2018 and who elects to participate in the Defined Contribution Retirement System and current members of the Defined Contribution System whose employment continues beyond December 31, 2017, shall continue to contribute and participate in the Defined Contribution System without change in provisions or benefits, except as provided from time to time under the Defined Contribution System.

(ii) Further, any new employee who commences employment on or after January 1, 2024, and who does not elect to participate in the Retirement Fund as a Defined Benefit 1.75 Plan member pursuant to § 8502(b)(1), shall contribute and participate in the Defined Contribution System, except as provided from time to time under the Defined Contribution System.

(2) Defined Benefit 1.75 Plan Election by Current Employees in Defined Contribution System.

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(A) All employees who are members in the Defined Contribution System on March 31, 2017 shall be eligible to elect on a voluntary basis to become Defined Benefit 1.75 Plan members effective as of January 1, 2018, and to terminate active participation in the Defined Contribution System as of such date, by making the appropriate election with the Defined Benefit 1.75 Retirement System in the form and manner as determined by the Board during the election period commencing on April 1, 2017 and ending on September 30, 2017. After having made such election to become a Defined Benefit 1.75 Plan member, the member may not change such election or again become an active member of the Defined Contribution System. The failure to make such election shall be deemed to constitute an election by the member to remain as an active member under the Defined Contribution System. Such election shall not apply to members in the Defined Contribution System who have retired or otherwise terminated employment from government service and who are not employed by the government of Guam at the time of the election and as of the January 1, 2018, effective date of participation in the Defined Benefit 1.75 Plan.

(B) Further, all employees who are members in the Defined Contribution System at any time between June 1 ,2023 and December 31, 2023, inclusive, shall be eligible to elect on a voluntary basis to become Defined Benefit 1.75 Plan members effective as of January 1, 2024, and to terminate active participation in the Defined Contribution System as of such date, by making the appropriate election with the Defined Benefit 1.75 Retirement System in the form and manner as determined by the Board during the election period commencing on June 1, 2023, and ending on December 31, 2023 (or January 31, 2024, for members who commenced employment during the month of December 2023). After having made such election to become a Defined Benefit 1.75 Plan member, the member may not change such election or again become an active member of the Defined Contribution System. The failure to make such election shall be deemed to constitute an election by the member to remain as an active member under the Defined Contribution System. Such election shall not apply to members in the Defined Contribution System who have retired or otherwise terminated employment from government service and who are not employed by the government of Guam at the time of the election and as of the January 1, 2024 effective date of participation in the Defined Benefit 1.75 Plan.

(3) Reemployment of Existing Retirement System Member. Any employee who is a member in the Existing Retirement System, who leaves government service and who is later reemployed after December 31, 2017 by the government of Guam, shall become an active member in the Existing Retirement System upon reemployment if such employee has not received a refund of contributions resulting in ineligibility for membership under § 8130(b), and if such employee otherwise meets the eligibility requirements under the Existing Retirement System.

(4) Reemployment of Defined Contribution System Member. Any employee who is a member maintaining an interest in the Defined Contribution System, who leaves government service and who is later reemployed by the government of Guam prior to September 30, 2017, shall become an active member in the Defined Contribution System upon reemployment if such employee otherwise meets the eligibility requirements under the Defined Contribution System.

(A) However, if such a member is reemployed during the period commencing on April 1, 2017, and ending on September 30, 2017, then:

(i) the member shall be eligible to elect on a voluntary basis to become a member of the Defined Benefit 1.75 Plan if such member otherwise meets the eligibility requirements for membership under §§ 8105 and 8106;

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(ii) the election period for this election shall be the period commencing on April 1, 2017, and ending on September 30, 2017 (or October 31, 2017 for members reemployed during the month of September 2017), and the effective date of the member's membership in the Defined Benefit 1.75 Plan shall be January 1, 2018; and

(iii) the member's account under the Defined Contribution System shall be subject to transfer to the Defined Benefit 1.75 Retirement System in accordance with §§ 8503(d)(2) and 8504.

(B) [No text]

(i) Further, if such a member is reemployed between October 1, 2017 and December 31, 2017, inclusive:

(aa) the member shall be eligible to elect on a voluntary basis to become a member of the Defined Benefit 1.75 Plan if such member otherwise meets the eligibility requirements for membership under §§ 8105 and 8106;

(bb) the election period for such election shall be the thirty (30) day period beginning on the date of reemployment, and the effective date of the member's membership in the Defined Benefit 1.75 Plan shall be the date of reemployment; and

(cc) the member's account under the Defined Contribution System shall not be subject to transfer to the Retirement Fund.

(ii) Further, for any employee who is a member maintaining an interest in the Defined Contribution System, who leaves government service and who is later reemployed by the government of Guam between June 1, 2023 and December 31, 2023, inclusive:

(aa) the member shall be eligible to elect on a voluntary basis to become a member of the Defined Benefit 1.75 Plan if such member otherwise meets the eligibility requirements for membership under §§ 8105 and 8106;

(bb) the election period for this election shall be the period commencing on June 1, 2023 and ending on December 31, 2023 (or January 31, 2024, for members reemployed during the month of December 2023), and the effective date of the member's membership in the Defined Benefit 1.75 Plan shall be January 1, 2024; and

(cc) the member's account under the Defined Contribution System shall be subject to transfer to the Defined Benefit 1.75 Retirement System in accordance with §§ 8503(d)(2) and 8504.

(5) Reemployment of Defined Contribution System Member on Disability.

(A) Notwithstanding § 8502(b)(4), a member of the Defined Contribution System who had incurred a disability and at any time been eligible to receive any benefits provided under any long-term disability insurance policy issued pursuant to § 8213 or Article 4 of this Title shall not be eligible for membership under the Defined Benefit 1.75 Retirement System upon reemployment, but such member who satisfies the eligibility requirements for membership under §§ 8206 and 8207 at such time shall participate in the Defined Contribution System in accordance with such eligibility requirements.

(B) However, in the case of a member of the Defined Contribution System who is receiving disability benefits under § 8213 or Article 4 of this Title on or before September 30, 2017, such member shall be eligible to elect on a voluntary basis to become a member of the Defined Benefit

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1.75 Plan in the event of the member's reemployment or retirement on or after January 1, 2018. For this purpose, the election period for this election shall be the period commencing on April 1, 2017, and ending on September 30, 2017 (or October 31, 2017, for employees who commence receiving disability benefits during the month of September 2017), and the effective date of the member's membership in the Defined Benefit 1.75 Plan shall be the later of:

(i) January 1, 2018, or

(ii) the date of the member's reemployment or retirement.

(6) Reemployment of Government of Guam Retiree. Any employee who retired under the Existing Retirement System, the Defined Contribution System, or the Defined Benefit 1.75 Retirement System, shall participate in the Defined Contribution Plan upon reemployment.

(7) The Government of Guam Retirement Fund (GGRF) shall submit to I Liheslaturan Guåhan an annual report of the following:

(A) total number of new employees who participated in the Defined Benefit 1.75 Plan;

(B) total number of employees who are members in the Defined Contribution System who elected on a voluntary basis to become members in the Defined Benefit 1.75 Plan;

(C) total number of public safety and law enforcement officers per agency who are members in the Defined Benefit 1.75 Plan that are eligible to retire;

(D) total number of public safety and law enforcement officers per agency who are members in the Defined Benefit 1.75 Plan that have elected to retire, and total number of vacancies per agency; and

(E) fiscal analysis by the Bureau of Budget and Management Research and the Office of Finance and Budget.

(c) Membership in Deferred Compensation Program. Defined Benefit 1.75 Plan members shall participate in the Deferred Compensation Program effective as of the date on which they commence participation in the Retirement Fund.

(d) Membership in Welfare Benefit Plans. Defined Benefit 1.75 Plan members shall not be eligible to participate in the welfare benefit plans established and maintained under Article 4 of this Title. As such, members of the Defined Contribution System who elect to become Defined Benefit 1.75 Plan members pursuant to § 8502(b) shall terminate participation in such welfare benefit plans effective as of the date on which they commence participation in the Defined Benefit 1.75 Retirement System.

(e) Applicability of Articles 1 through 3, Chapter 8. Except as otherwise provided hereunder, with respect to Defined Benefit 1.75 Plan members who participate in the Retirement Fund, Defined Contribution System, and Deferred Compensation Program in accordance with the Defined Benefit 1.75 Retirement System provisions under this Article 5, the provisions of Articles 1 through 3 of this Chapter 8, respectively, shall be applicable to Defined Benefit 1.75 Plan members in a manner no different than the application to members who are not Defined Benefit 1.75 Plan members.

SOURCE: Added by P.L. 33-186:3 (Sept. 14, 2016). Subsections (b)(1), (2) and (4) amended by P.L. 36-130:2-5 (Dec. 27, 2022); subsection (b)(7) added by P.L. 36-130:10 (Dec. 27, 2022).

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2023 NOTE: In light of amendments to subsection (b) by P.L. 36-130 (Dec. 27, 2022), subitem designations were added/altered pursuant to the authority of 1 GCA § 1606.

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2016 NOTE: Subsection designations were added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 8503. Defined Benefit 1.75 Plan Member Basic Retirement Annuity.

(a) Amount of Basic Retirement Annuity. Notwithstanding the otherwise applicable formula under § 8122 or other successor provision, the basic retirement annuity payable to a Defined Benefit 1.75 Plan member under the Retirement Fund shall be the following:

(1) an amount equal to one and seventy-five hundredths percent (1.75%) of average annual salary for each year of credited service; however, for a Defined Benefit 1.75 Plan member who is an active employee on or after January 1, 2024, the basic retirement annuity shall be an amount equal to one and seventy-five hundredths percent (1.75%) of average annual salary for each year of credited service, up to twenty-five (25) years of credited service, plus two and seventy-five hundredths percent (2.75%) of average annual salary for each additional year of credited service in excess of twenty-five (25) years of credited service, up to fifteen (15) years of additional credited service;

(2) no basic retirement annuity shall exceed eighty-five percent (85%) of average annual salary; and

(3) the basic retirement annuity shall not, in any case, be less than One Thousand Two Hundred Dollars ($1,200) per year per member.

For purposes of defining "salary" and "average annual salary" under § 8104(i) and (j), respectively, with respect to the determination of the basic retirement annuity payable to a Defined Benefit 1.75 Plan member, the term "salary" shall mean the member's base salary excluding all non-base compensation.

(b) Automatic Increases in Annuity for Basic Retirement Annuity. Any Defined Benefit 1.75 Plan member receiving a basic retirement annuity under the Retirement Fund shall receive each year on the anniversary date of the member's retirement or entitlement, an automatic "sliding scale" increase in the member's annual annuity as applicable under the Retirement Fund pursuant to § 8122 or other successor provision.

(c) Retirement.

(1) Notwithstanding the otherwise applicable retirement requirements under §§ 8119 through 8120.1 or other successor provisions, a Defined Benefit 1.75 Plan member may retire on a service retirement annuity under the Retirement Fund, upon written application to and approval by the Board; provided that such member shall have attained at least sixty-two (62) years of age and has completed five (5) years of service. However, at the option of the Defined Benefit 1.75 Plan member, whether active or inactive, such member may retire after

(A) attaining at least fifty-five (55) years of age and

(B) completing twenty-five (25) years of service, in which case the retirement annuity for such member shall be reduced one half (½) of one percent (1%) for each month such member is under the age of sixty-two (62) years at such time of retirement, from the amount of the retirement annuity determined for such member as of his attainment of age sixty-two (62).

(2) Notwithstanding the foregoing portion of this § 8503(c), and notwithstanding the otherwise applicable retirement requirements under §§ 8119 through 8120.1 or other successor provisions, a Defined Benefit 1.75 Plan member who is a public safety and law enforcement officer as defined in § 8501(m) of this Chapter, and who is an active employee on or after January 1, 2024, may retire on a service retirement annuity under the Retirement Fund, upon written application to and approval by the Board; provided that such member shall have either

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(A) attained at least fifty-five (55) years of age and completed twenty-five (25) years of service or

(B) attained at least fifty-seven (57) years of age and completed five (5) years of service. The retirement annuity for such member shall not be subject to the reduction which is described in the preceding paragraph.

(d) Credited Service for Transfers from Defined Contribution System.

(1) Transfer of Account to Defined Benefit 1.75 Retirement System.

(A) [No text]

(i) With respect to a member in the Defined Contribution System on March 31, 2017 who timely elects to be a member in the Defined Benefit 1.75 Retirement System effective as of January 1, 2018, in accordance with the election procedures under § 8502(b)(2), the member's account balance under the Defined Contribution System shall be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of January 1, 2018.

(ii) With respect to an employee who is a member in the Defined Contribution System between June 1, 2023 and December 31, 2023, inclusive, who timely elects to be a member in the Defined Benefit 1.75 Retirement System effective as of January 1, 2024, in accordance with the election procedures under § 8502(b)(2), the member's account balance under the Defined Contribution System shall be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of January 1, 2024.

(B) [No text]

(i) Further, with respect to a member in the Defined Contribution System who is reemployed by the government of Guam during the period between April 1, 2017 and September 30, 2017, inclusive, and who becomes a member in the Defined Benefit 1.75 Retirement System effective as of January 1, 2018, in accordance with the election procedures under § 8502(b)(4), the member's account balance under the Defined Contribution System shall be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of January 1, 2018.

(ii) Further, with respect to a member in the Defined Contribution System who is reemployed by the government of Guam during the period between June 1, 2023 and December 31, 2023, inclusive, and who becomes a member in the Defined Benefit 1.75 Retirement System effective as of January 1, 2024, in accordance with the election procedures under § 8502(b)(4), the member's account balance under the Defined Contribution System shall be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of January 1, 2024.

(C) Finally, with respect to a member in the Defined Contribution System who is receiving disability benefits and who becomes a member in the Defined Benefit 1.75 Retirement System upon reemployment or retirement in accordance with § 8502(b)(5), the member's account balance under the Defined Contribution System shall be transferred to the Defined Benefit 1.75 Retirement System, in accordance with § 8504, effective as of the effective date of the member's membership in the Defined Benefit 1.75 Plan as described in § 8502(b)(5).

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(D) In these cases, as of the effective date of the transfer of a member's account from the Defined Contribution System to the Defined Benefit 1.75 Retirement System, such member's membership in the Defined Contribution System shall terminate.

(E) [No text]

(i) The transfer of a member's account from the Defined Contribution System to the Defined Benefit 1.75 Retirement System attributable to the transfer of Member Contributions pursuant to § 8208, and Member's Contribution Reserve and Transfer Incentive Reserve pursuant to § 8209.1(a) and (b), shall be made in accordance with § 8504.

(ii) The transfer of a member's Employer Account to the Defined Benefit 1.75 Retirement System attributable to the transfer of Employer's Contributions pursuant to § 8209(a) (whether the account reflecting such employer contributions are vested or unvested, and inclusive of unvested suspense accounts) shall be pursuant to § 8503(d)(2).

(F) Any Ancillary Benefit Account maintained under the Defined Contribution System on behalf of the member as described in § 8201(n) shall not be subject to transfer.

(2) Defined Contribution System Credited Service. Effective as of the effective date of the transfer of the member's account from the Defined Contribution System to the Retirement Fund under this § 8503(d), the service for which the member's account is credited with employer contributions under the Defined Contribution System (including the service under the Retirement Fund attributable to the employee contributions previously transferred from the Retirement Fund to the Defined Contribution System pursuant to the member's election under § 8207), shall be credited to the member for purposes of determining the member's years of credited service and basic retirement annuity under the Retirement Fund in accordance with § 8503. In connection with credited service transferred from the Defined Contribution System to the Retirement Fund under § 8503(d)(1), a member's § 8209(a) Employer's Contribution account (whether the account reflecting such employer contributions are vested or unvested, and inclusive of unvested suspense accounts) shall be transferred to the member's § 8164(b) account (Employer's Contribution Reserve) under the Retirement Fund.

(3) Credited Service for Repayment of Defined Contribution System Contributions. In the event that the Defined Benefit 1.75 Plan member's account under the Defined Contribution System was previously reduced by the member's withdrawal of an amount from the member's account that is attributable to contributions during the member's active participation in the Defined Contribution System, the member shall be allowed to repay to the Retirement Fund the amount of the withdrawal, adjusted for interest during the period commencing on the date of the withdrawal and ending on the date of the repayment, which repayment must be made in any combination of the following:

(A) a single payment,

(B) transfer of Excess Account Balance, or

(C) installments to the Retirement Fund

in accordance with the Article 1 of Chapter 3, Division 1, Title 2 of the Guam Administrative Rules, as amended. If such withdrawn portion of the member's account is not timely repaid in full to the Retirement Fund, then the service that otherwise would be credited under the Retirement Fund for service during the member's active participation in the Defined Contribution System shall be reduced to account for the service to which the withdrawal relates, in accordance with rules, regulations, and procedures as promulgated or approved by the Board.

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(4) Credited Service for Repayment of Prior Retirement Fund Contributions. In the event that the member's account under the Defined Contribution System was previously reduced by the member's withdrawal of an amount from the member's account that is attributable to the prior transfer of employee contributions from the Retirement Fund to the Defined Contribution System (specifically, considering only the portion of the account derived from the transferred Member's Contribution Reserve, and not the Employer's Contribution Reserve) pursuant to the member's election under § 8207, the member shall be allowed to repay to the Retirement Fund the amount of the withdrawal, adjusted for interest during the period commencing on the date of the withdrawal and ending on the date of the repayment, which repayment must be made in any combination of the following:

(A) a single payment, transfer of Excess Account Balance, or

(B) installments to the Retirement Fund in accordance with the Article 1 of Chapter 3, Division 1, Title 2 of the Guam Administrative Rules, as amended.

If such withdrawn portion of the member's account is not timely repaid in full to the Retirement Fund, then the service that otherwise would be credited under the Retirement Fund for service during the member's prior participation in the Retirement Fund shall be reduced to account for the service to which the withdrawal relates in accordance with rules, regulations, and procedures as may be promulgated or approved by the Board.

SOURCE: Added by P.L. 33-186:3 (Sept. 14, 2016). Subsections (a), (c), and (d) amended by P.L. 36-130:6-9 (Dec. 27, 2022). Subsection (c) amended by P.L. 37-007:3 (Apr. 12, 2023), effective retroactively as of Dec. 27, 2022, pursuant to P.L. 37-007:5.

2025 NOTE: The Compiler has added "no text" to indicate a change in formatting only; the content of the provision has not been altered.

2023 NOTE: In light of amendments by P.L. 36-130 (Dec. 27, 2022), subsection designations were added/altered pursuant to the authority of 1 GCA § 1606.

2016 NOTE: Subsection designations were added to adhere to the Compiler's general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

§ 8504. Transfer of Member Accounts from Defined Contribution System; Transfer of Excess Account Balance, If Any.

(a) In connection with credited service transferred from the Defined Contribution Retirement System to the Retirement Fund under § 8503(d)(1), a member's Member Account balances in the Defined Contribution System shall be transferred to the Defined Benefit 1.75 Retirement System in accordance with this Section.

(b) An amount equal to the lesser of a member's:

(1) section 8208 and § 8209.1(a) account balances, if any; or

(2) actuarial cost of credited service, shall be transferred to the Defined Benefit 1.75 Retirement System as set forth in this § 8504(b).

(c) The actuarial cost of credited service for a member transferring to the Defined Benefit 1.75 Plan shall be funded first from the member's § 8209.1(a) account, if any, and applied to the member's § 8164(a) Member's Contribution Reserve; any further amounts needed to fund up to the actuarial cost of credited service shall be funded next from the member's § 8208 pre-tax account and applied to a pre-tax subaccount in the member's § 8164(a) Member's Contribution Reserve.

(d) Excess Account Balance, if any, attributable to a member's § 8209.1(a) account shall remain in the member's § 8209.1(a) account, except for amounts designated by the member to be applied to repay prior partial withdrawals from the member's account in accordance with § 8503(d)(3).

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(e) Excess Account Balance, if any, attributable to a member's § 8208 Member Contribution Account shall remain in the member's § 8208 Member Contribution Account, except for amounts designated by the member to be applied to repay prior partial withdrawals from the member's account in accordance with § 8503(d)(3).

(f) An amount equal to the member's § 8209.1(b) account (Rollover Employer's Contributions from § 8164(b), also referred to as the Transfer Incentive Reserve) shall remain in the member's § 8209.1(b) account, except for amounts designated by the member to be applied to repay prior partial withdrawals from the member's account in accordance with § 8503(d)(3).

SOURCE: Added by P.L. 33-186:3 (Sept. 14, 2016). Amended by P.L. 34-042:XII:17(b) (Sept. 16, 2017).

§ 8505. Defined Benefit 1.75 Plan Member Disability Retirement Annuity.

(a) Amount of Disability Retirement Annuity. Notwithstanding the otherwise applicable formula under § 8125 or other successor provision, the amount of basic disability retirement annuity for a Defined Benefit 1.75 Plan member under the Retirement Fund shall be fifty percent (50%) of average annual salary based on the average three (3) highest annual salaries received the member during that member's years of credited service. For purposes of defining "salary" and "average annual salary" under § 8104(i) and (j), respectively, with respect to the determination of the basic disability retirement annuity payable to a Defined Benefit 1.75 Plan member, the term "salary" shall mean the member's base salary excluding all non-base compensation.

(b) Automatic Increases in Annuity for Disability Retirement Annuity. Any Defined Benefit 1.75 Plan member receiving a recomputed disability retirement annuity under the Retirement Fund shall receive each year on the anniversary date of the member's retirement or entitlement, an automatic sliding scale increase in the member's annual basic disability retirement annuity as applicable under the Retirement Fund pursuant to § 8129 or other successor provision.

§ 8506. Defined Benefit 1.75 Plan Member Death and Survivors Benefits.

The death benefit and survivor annuity provisions in connection with a member's death under §§ 8131 through 8135 or other successor provisions shall be applicable to Defined Benefit 1.75 Plan members in a manner no different than the application to members who are not Defined Benefit 1.75 Plan members.

§ 8507. Defined Benefit 1.75 Plan Member Contributions to Fund.

The member contribution provisions under § 8136 or other successor provision shall be applicable to Defined Benefit 1.75 Plan members in a manner no different than the application to members who are not Defined Benefit 1.75 Plan members. However, notwithstanding that the contributions by Defined Benefit 1.75 Plan members are designated as member contributions and shall be administered as member contributions under § 8136, such contributions shall be on a mandatory basis deducted from the member's base salary and paid by the employer in lieu of contributions by the member, and shall constitute pre-tax "pick-up" employer contributions for purposes of determining the income tax treatment of such contributions under Section 414(h) of the United States Internal Revenue Code.

§ 8508. Deferred Compensation Program.

In accordance with § 8308, the employer shall automatically enroll members and deduct and credit Defined Benefit 1.75 Plan member contributions under the Deferred Compensation Program in an amount equal to one percent (1%) of the member's base salary. However, notwithstanding that the contributions by Defined Benefit 1.75 Plan members are designated and shall be administered as member contributions under § 8308, such contributions shall be on a mandatory basis deducted from the member's base salary and paid by the employer in lieu of contributions by the member, and shall constitute pre-tax "pick-up"

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employer contributions for purposes of determining the income tax treatment of such contributions under Section 414(h) of the United States Internal Revenue Code.

SOURCE: Added by P.L. 33-186:3 (Sept. 14, 2016). Amended by P.L. 34-042:XII:17(c) (Sept. 16, 2017).

ARTICLE 6
GUAM RETIREMENT SECURITY PLAN (GRSP)
[REPEALED]

SOURCE: Added as uncodified law by P.L. 33-186:5 (Sept. 14, 2016), codified pursuant to the authority of 1 GCA § 1606. Repealed by P.L. 35-072:2 and 3 (Feb. 14, 2020), effective retroactively to Jan. 1, 2018.

2020 NOTE: Prior to its repeal, Article 6 provided for a cash balance retirement plan known as the Guam Retirement Security Plan (GRSP), as enacted by P.L. 33-186:5 (Sept. 14, 2016). However, the GRSP was repealed by P.L. 35-072:1 (Feb. 14, 2020), where the Legislature found "that the Board of Trustees of the Retirement Fund properly refrained from implementing the GRSP and properly designated the DCRS [Defined Contribution Retirement System] as the appropriate default plan for new employees of the government of Guam as of January 1, 2018."

Consequently, the repeal of the GRSP, codified Article 6 of Chapter 8 of Title 4, is effective retroactively to January 1, 2018.

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