



NMI SETTLEMENT FUND

POST OFFICE BOX 501247, SAIPAN, MP 96950

May 21, 2020

VIA ELECTRONIC MAIL

Blas Jonathan T. Attao
Speaker
21st Northern Marianas Commonwealth Legislature
House of Representatives
P.O. Box 500586
Saipan, MP 96950

RE: Senate Legislative Initiative (SLI) 21-06

Dear Speaker Attao:

SLI 21-06 is scheduled to be voted on before the House of Representatives' special session today. I am writing to provide comments concerning SLI 21-06, which proposes to amend Article III, Section 20(b) of the CNMI Constitution by eliminating the additional five-year credit for employees with 20 years of creditable service; authorizing reemployment of retirees indefinitely; and removing the current prohibition on the recomputation of retirement benefits based on reemployment service.

We have reviewed SLI 21-06 and it is the Settlement Fund's position that SLI 21-06 does not comport with the Settlement Agreement because it attempts to change the benefits received by a retiree returning to government service contrary to 1 CMC § 8392 (the "double dipping statute"). A retiree is a "Class Member" whose benefits are defined in the Settlement Agreement as follows:

"Full Benefits Payments" or "Full Benefits" means benefit payments in the amount defined by 1 CMC § 8301 et seq. (excluding any changes by P.L. 17-82 or P.L. 18-02) as those laws existed on June 26, 2013, or guaranteed by N. Mar. I. Const. art. II, §20(a) as it existed in June 26, 2013.

Settlement Agreement ¶ 1.13 (ECF No. 468-1, at 6). Paragraph 1.13 of the Settlement Agreement froze the Class Member's "Full Benefits" as those laws existed on June 26, 2013.

Similar bills attempting to change the same or similar benefits have been introduced in previous legislatures have failed for the same reason:

- **House Bill 18-174 (1/27/2014)** sought to increase retirement benefits when a retiree who returns to government service subsequently retires.

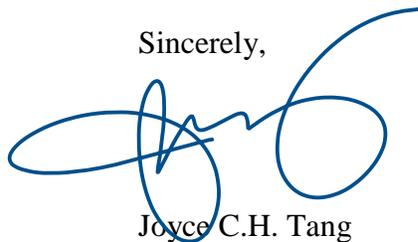
- **SLI 19-01 (2/3/2015)**, like SLI 21-06, proposed to amend Article III, Section 20(b) to allow retirees to return to government service for an indefinite period and remove the prohibition on the recomputation of retirement benefits based on reemployment service.
- **House Bill 19-24 (2/9/2015)** mirrors House Bill 18-174.
- **House Bill 19-91 (7/22/2015)** sought to amend the 1 CMC § 8392(a)(2) to add “veterinarians in the public sector” to the list of exempted positions for retirees returning to government service.
- **SLI 20-01 (7/11/2017)** proposed to amend Article III, Section 20(b) to allow retirees return to service as classroom teachers, doctors, nurses, and other medical professionals indefinitely.

The Settlement Fund’s position with respect to changes to retirement benefits has been consistent—any legislation modifying the benefits of a Class Member is ineffective without the consent of the Settlement Fund and the approval of the NMI District Court. The parties to the Settlement Agreement must comply with all laws and terms of the Settlement Agreement. Thus, if passed and signed into law, SLI 21-06 would have no effect, and the Settlement Fund would not be bound by such law.

Furthermore, SLI 21-06 allows reemployed retirees to be paid more than they would have received under 1 CMC § 8392. The financial impact of this initiative would contravene the terms of the Settlement Agreement because the benefit payments to retirees over the term of the Settlement Fund are predicated on the benefits being paid in accordance with the Settlement Agreement, which limit benefits due to retirees existing as of June 26, 2013, reduced by 25%.

For the foregoing reasons, the Settlement Fund opposes the passage of SLI 21-06. I am happy to discuss any further concerns or comments you may have regarding this initiative.

Sincerely,



Joyce C.H. Tang

cc: Honorable Ralph DLG. Torres, Governor
Honorable Arnold I. Palacios, Lieutenant Governor
Honorable Victor B. Hocog, Senate President
Margery S. Bronster, Settlement Class Counsel
Robert M. Hatch, Settlement Class Counsel