

**4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES**

**CHAPTER 8
RETIREMENT OF PUBLIC EMPLOYEES**

- Article 1. Defined Benefit Plan [Old Plan].
- Article 2. Defined Contribution Retirement System [New Plan].
- Article 3. Deferred Compensation Program.
- Article 4. Welfare Benefit Plans.

**ARTICLE 2
DEFINED CONTRIBUTION RETIREMENT PLAN**

SOURCE: This Article was added by P.L. 23-42:3 (09/29/95). The effective date is October 1, 1995.

COMMENT: Section 1 of P.L. 23-42 stated the purpose of this Article as:

The Legislature finds that:

(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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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. Same: Ineligible Persons.
- § 8207. Voluntary Participation in System.
- § 8208. Members' Contributions.
- § 8209. Employer Contributions.
- § 8209.1. Rollover 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.
- § 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;

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

(b) *Existing retirement system* means the Government of Guam Retirement Fund established in Article 1 of this Title;

(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 the territory of 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;

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

(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.

(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) *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.

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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

limitations in accordance with this Article and as set forth in rules promulgated by the Board.

SOURCE: Subsection (f) amended by P.L. 23-43:IV:20 (10/18/95). Subsection (h) amended by P.L. 24-200:3. Subsection (n) added by P.L. 24-200:7. Subsection (o) added by P.L. 25-019:5. Subsection (e) amended by P.L. 25-157:4. Subsections (h), (k) and (n) amended by P.L. 26-162. Subsection (k) repealed/reenacted by P.L. 25-162. Subsection (m) amended by P.L. 28-141:2 (July 18, 2006).

NOTE: With respect to the amendment of subsection (m), P.L. 28-141:11 provides: "This enactment shall take effect retroactively as of October 1, 2005, *except* as expressly provided herein."

§ 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.

SOURCE: Amended by P.L. 24-200:4. Amended by P.L. 26-162:7.

§ 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.

The Board has all powers necessary to effectuate the purposes of this Article. The Board may contract with an insurance, annuity, mutual fund,

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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.

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: Amended by P.L. 24-200:5. Amended by P.L. 26-162:8.

§ 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.

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

(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 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: Amended by P.L. 28-141:3 (July 18, 2006).

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."

§ 8206.1. Same: 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: Amended by P.L. 28-141:4 (July 18, 2006).

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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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.

SOURCE: Amended by P.L. 24-53:1. Amended by P.L. 25-019:6. Repealed/reenacted by P.L. 25-157:5. Amended by P.L. 26-85:7(b). Amended by P.L. 28-141:5 (July 18, 2006).

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."

§ 8208. Members' Contributions.

All contributions by the members shall be mandatory and equal to five (5) percent of base pay. 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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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 (i) the enactment of this Article (ii) October 1, 1995, or (iii) 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. 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. 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. 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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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.

§ 8209. Employer Contributions.

(a) 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. The amounts contributed herein shall vest in accordance with the vesting schedule set forth in Subsection (c) of § 8210.

(b) Furthermore, prior to the adoption of welfare benefit plans for pre-retirement disability and survivor death benefits in Article 4 of this Title, 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: Amended by P.L. 23-45:IV:19 (10/18/95). Repealed/reenacted by P.L. 25-157:6. Amended by P.L. 26-162:9. Subsection (b) amended by P.L. 27-106:VI:38.

§ 8209.1. Rollover 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.

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

(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 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. Repealed/reenacted by P.L. 25-157:7.

§ 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.

§ 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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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).

(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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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: Amended by P.L. 25-019:9. Repealed/reenacted by P.L. 25-157:8. Amended by P.L. 26-13:1. Subsections (b) and (c) amended by P.L. 25-162:10, 11 respectively. The heading for § 8210 was 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 Title. 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

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

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: Repealed/reenacted by P.L. 25-157:9. Entire section *amended* by P.L. 26-162:12. Amended by P.L. 28-141:7 (July 18, 2006).

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."

§ 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: Repealed/reenacted by P.L. 25-157:10.

§ 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: Amended by P.L. 28-141:8 (July 11, 2006).

NOTE: Pursuant to P.L. 28-141:8, the amendment to § 8216 is retroactive to the date of any applicable court order.

§ 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.

(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,

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

including start-up costs of the plan, and to reduce administrative fees or charges paid by participants under § 8217(a).

SOURCE: Subsection (c) added by P.L. 26-13:2. Amended by P.L. 28-141:9 (July 18, 2006).

NOTE: P.L. 28-141:9 amends § 8217 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.

4 GCA PUBLIC OFFICERS & EMPLOYEES
CH 8 RETIREMENT OF PUBLIC EMPLOYEES

(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: Amended by P.L. 24-53:2; and subsection (h) by P.L. 25-019:7. Subsection (h) repealed/reenacted by P.L. 25-157:11. Amended by P.L. 26-85:7(c).

§ 8219. Lump Sum for Sick Leave Not Utilized.

[Repealed.]

SOURCE: Original § 8219 dealing with “Deferred Compensation” repealed by P.L. 24-268:2. Current Section added by P.L. 25-157:11. Repealed by P.L. 26-86:2 and replaced by 4 GCA § 4108(h).
