

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
285-36 (LS)	Telo T. Taitague Therese M. Terlaje Sabina Flores Perez	AN ACT TO ADD A NEW CHAPTER 8B TO TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO IMPLEMENTING THE "SUPPLEMENTAL COLA ADJUSTMENT ACT," A SUPPLEMENTARY COST OF LIVING ADJUSTMENT (COLA) FOR GOVERNMENT OF GUAM RETIREES WHO ARE RESIDENTS OF GUAM, AND TO ADD A NEW SECTION 13108A TO CHAPTER 13, TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING A SPECIAL COST OF LIVING ECONOMIC SERVICE.	4/5/22 10:00 a.m.						

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 285-36 (LS)

Introduced by:

Telo T. Taitague 

Therese M. Terlaje 

Sabina Flores Perez 

AN ACT TO ADD A NEW CHAPTER 8B TO TITLE 4 OF THE GUAM CODE ANNOTATED RELATIVE TO IMPLEMENTING THE “*SUPPLEMENTAL COLA ADJUSTMENT ACT*,” A SUPPLEMENTARY COST OF LIVING ADJUSTMENT (COLA) FOR GOVERNMENT OF GUAM RETIREES WHO ARE RESIDENTS OF GUAM, AND TO ADD A NEW SECTION 13108A TO CHAPTER 13, TITLE 2 OF THE GUAM CODE ANNOTATED, RELATIVE TO CREATING A SPECIAL COST OF LIVING ECONOMIC SERVICE.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Intent. *I Liheslaturan Guåhan* finds that many
3 retirees have limited financial resources and live on a fixed income. Retirees are
4 solely or almost entirely dependent on their pensions and are challenged with little
5 to no flexibility in managing their limited financial resources. Retirees living on a
6 tight budget find it challenging to afford unexpected expenses, and care must be
7 taken to manage disposable income.

8 *I Liheslaturan Guåhan* further finds after years of inflation, many retirees
9 are more than ever concerned about rising prices. Transportation costs, food, and
10 gasoline have increased mainly due to the economic spike after the worst of the
11 pandemic, especially with a seven percent (7%) rise in the Consumer Price Index

1 (CPI), the *most significant 12-month increase since June 1982¹*, outpacing the
2 value of COLA allowances that has been in effect since fiscal year 2015.

3 COLA is an allowance paid annually to retirees and survivors amounting to
4 two thousand dollars (\$2,000.00) since October 2014. Funding has remained fixed,
5 with *I Maga'håga* proposing the same amount for fiscal year 2023. The allowances
6 paid to retirees have remained stable for eight (8) years.

7 Through this Act, *I Liheslaturan Guåhan* intends to apply the two thousand
8 dollars (\$2,000.00) fiscal year 2015 COLA as a baseline value in estimating
9 Guam's consumer price index for prudent COLA adjustments. In contrast, using
10 the United States Department of Labor consumer price index from September 2014
11 to March 2022² resulted in the adjustment of three hundred eighty-four dollars
12 (\$384.00) increase to the two thousand dollars (\$2,000.00) annual COLA. The Act
13 further intends to create the *Office of Finance and Budget - Special Cost of Living*
14 *Economic Service* to develop a Guam Cost of Living Annual Report
15 recommending COLA adjustments and a sliding-scale schedule to implement fiscal
16 year appropriations.

17 The *Supplemental COLA Adjustment Act* comes at a critical time for retirees.
18 Every dollar paid out to a resident retiree has a multiplier of 1.30^3 when spent on
19 Guam. Consequently, the supplemental COLA provides a thirty percent (30%)
20 revenue benefit to the General Fund with a positive outcome on funding earmarked
21 to supplemental COLA payments to *manåmko* retirees.

¹ Consumer Price Index Summary - 2021 M12 Results (bls.gov),
<https://www.bls.gov/news.release/cpi.nr0.htm?s=09>

² CPI Inflation Calculator (bls.gov), United States Department of Labor Statistics

³ 2018.Guam Economic Report, University of Guam, Maria Claret M. Ruanne, Ph.D. et al., page 6
https://www.uog.edu/_resources/files/schools-and-colleges/school-of-business-and-public-administration/UOG_RCPP_2018_GUAM_ECONOMIC_REPORT.pdf,

- 1 a. “Absence” or “Absent” shall mean the length of time exceeding one hundred
2 eighty (180) days that signifies a break in residency to receive COLA
3 adjustments.
- 4 b. “Adjustment” is an increase in Cost of Living Allowances to counteract
5 inflation using Guam’s Consumer Price Index.
- 6 c. “Annuitant or retiree” is a person who is no longer in active service with the
7 government of Guam and is a member of the Government of Guam
8 Retirement Fund.
- 9 d. “Applicant” shall mean a government of Guam retiree or survivor seeking
10 enrollment to receive COLA adjustments.
- 11 e. “Bi-monthly” means twice a month.
- 12 f. “COLA” shall mean the annual Cost of Living Allowance paid uniformly to
13 retirees or their survivors commencing with § 5 of Chapter 11, Public Law
14 32-181 and applied to comparable fiscal year appropriations enacted
15 thereafter.
- 16 g. “COLA adjustment” shall mean COLA adjusted payments supplementing
17 fiscal year allowances approved by law.
- 18 h. “Director” is the Director of the Government of Guam Retirement Fund.
- 19 i. “Enrollment” shall mean the date of registration with the Retirement Fund
20 where eligibility to receive COLA adjustments is determined and approved.
- 21 j. “Recipient” shall mean a government of Guam retiree or survivor who is
22 enrolled to receive COLA adjustments.
- 23 k. “Retirement Fund” shall refer to the Government of Guam Retirement Fund.
- 24 l. “Sliding-scale” shall refer to a system where COLA adjustments are paid
25 and calculated on the annuity commencing at forty thousand dollars
26 (\$40,000) that supplements the standard cost of living *allowance* paid to a
27 retiree or the survivor of a retiree.

1 m. “Survivor” is a spouse or the beneficiary of a deceased retiree.

2 **§ 8B103. Purpose of Chapter.** This Chapter provides supplemental COLA
3 adjustment payments to government of Guam retirees or their survivors who are
4 residents in Guam. This Chapter shall not be understood as a Cost of Living
5 Allowance (COLA).

6 **§ 8B104. Supplemental COLA Adjustment Act, Eligibility and**
7 **Determination.** The Retirement Fund shall determine retiree and survivor
8 eligibility to receive COLA adjustments under this Chapter. The Retirement Fund
9 shall implement procedures and forms necessary for enrollment eligibility as
10 provided in §8B105, infra. A recipient shall remain enrolled under this Act until
11 deceased, no longer resident, or according to § 8B112, infra, waives COLA
12 adjustment payments.

13 **§ 8B105. Enrollment Required.** (a) Eligibility established under this
14 Section accrues from the first day of the month after a written application from an
15 applicant on a form prescribed by the Retirement Fund or is either hand-delivered
16 to the Retirement Fund or is mailed and postmarked from within Guam. If a mailed
17 application has a postmark on which the date is missing or illegible, the postmark
18 day is rebuttably presumed to be five working days before the Retirement Fund
19 receives the application. Except as otherwise specified by the Retirement Fund, an
20 applicant must be a government of Guam retiree and resident to receive COLA
21 adjustment payments under this Act; and does not claim residency and is not
22 domiciled outside of Guam. Enrollment proof of residency is an applicant’s
23 responsibility. If residency is in question, the Retirement Fund shall provide
24 notification by certified mail that proof of residency is required, and verification
25 must be provided within thirty-five (35) days after the postmarked date. Failure to
26 provide evidence of residence within thirty-five (35) days of the postmarked notice
27 date by either hand-delivering or mailing evidence postmarked within the period

1 shall lose enrollment status. A recipient losing enrollment status or has self-
2 terminated due to an absence greater than one hundred eighty (180) days may
3 resubmit an application for enrollment accompanied by proof of residence.

4 **§ 8B106. Medical Certification Required for Absence Due to Illness or**
5 **Medical Purpose.** (a) A medical certification shall be submitted to the Retirement
6 Fund for absences exceeding one hundred eighty (180) days caused by illness, a
7 medical condition, or treatment. (b) The medical certification must be from a
8 licensed physician stating the description of appropriate medical facts, health
9 condition, when the medical condition commenced, and probable treatment
10 duration. (c) A medical certification must be updated and submitted to the
11 Retirement Fund within one hundred eighty (180) days of the date of the last
12 medical certification.

13 **§ 8B107. Retirees on Active Duty.** A recipient on active duty with the
14 Guam National Guard or the reserve components of any of the Armed Services of
15 the United States who is militarily deployed shall be considered a resident while
16 deployed on active duty.

17 **§ 8B108. Survivor of a Deceased Retiree.** (a) A survivor who is minor or
18 disabled is eligible to receive COLA adjustments payable to their guardian and for
19 the collective benefit of the Enrollee(s) entitled to receive COLA adjustments
20 under this Chapter. (b) The survivor of a deceased member up to age 26 shall
21 continue to receive COLA adjustments while actively attending school full-time.
22 (c) The surviving spouse of a deceased retiree is eligible to receive COLA
23 adjustments for twelve (12) months after the death of a member while not resident.

24 **§ 8B109. COLA Adjusted Payments to Retirees and Survivors.** (a) *I*
25 *Maga'hågan Guåhan* shall provide COLA adjustment payments within thirty (30)
26 days after enrollment. (b) If a retiree is under a Defined Benefit Plan and a Defined
27 Contribution Plan, the retiree or their survivor shall receive a single COLA

1 adjustment. (c) *I Liheslaturan Guåhan* shall include an appropriation from the
2 General Fund to the Department of Administration considering recommendations
3 by the Special Cost of Living Economic Service as provided in § 13108A of
4 Chapter 13, Title 2, Guam Code Annotated to implement the *Supplemental COLA*
5 *Adjustment Act.*

6 **§ 8B110. Autonomous Agencies Responsible for COLA Adjusted**
7 **Payments** The Guam Power Authority, the A.B. Won Pat International Airport
8 Authority, the Guam Economic Development Authority, the Guam Housing
9 Corporation, the Government of Guam Retirement Fund, the Jose D. Leon
10 Guerrero Commercial Port, the Guam Waterworks Authority, and the Guam
11 Visitors Bureau shall pay for COLA adjustments to resident retirees or their
12 survivors who retired from their respectively autonomous agency. Autonomous
13 Agencies shall reimburse the General Fund for any COLA adjustments paid to the
14 recipients who have retired from that agency fifteen (15) days after each fiscal year
15 quarter. The Department of Administration, the Retirement Fund, and autonomous
16 agencies shall coordinate that this Section is complied with.

17 **§ 8B111. Proration of COLA Adjusted Payments.** The Department of
18 Administration or autonomous agency issuing COLA adjustment payments shall
19 pay for sums owed to a recipient from enrollment.

20 **§ 8B112. Recoupment of Overpaid COLA Adjusted Payments.** All
21 COLA adjustments overpaid to a recipient shall be repaid and recouped to the
22 General Fund or a fund of the autonomous agency that has issued COLA
23 adjustments within ninety (90) days after first receiving notice from the Retirement
24 Fund.

25 **§ 8B113. Retiree May Waive COLA Adjusted Payments.** Any annuitant
26 eligible to receive a COLA adjustment may waive their payment authorized herein
27 by filing a notarized affidavit waiving such payment with the Retirement Fund.

1 The Director shall transmit a copy of the notarized affidavit to the entity
2 responsible for issuing payment.

3 **§ 8B114. Electronic Fund Transfer Required for COLA Adjusted**
4 **Payments.** (a) COLA adjustments shall be paid through Electronic Fund Transfer
5 (EFT) to institutions registered with the Automated Clearing House (ACH) to
6 receive COLA adjustment payments. (b) Enrollees must provide banking
7 information to receive COLA adjustments or request that printed check payments
8 be made.

9 **§ 8B115. Construction With Other Laws.** Insofar as the provisions of the
10 *“Supplemental COLA Adjustment Act”* are inconsistent with the provisions of any
11 other law or regulations, in whole or in part, the provisions of this Act shall be
12 controlling; and in particular but not by way of limitation, except as may be
13 provided in this Act, no provision of any law or regulation shall have cause or
14 effect in carrying out the purpose of the provisions of the *“Supplemental COLA*
15 *Adjustment Act”* unless *I Liheslaturan Guåhan* shall specifically so state.

16 **§ 8B116. Violations.** A person who knowingly makes a false statement or
17 falsifies or permits to be falsified a record of eligibility of this Act in an attempt to
18 defraud the system is guilty of a misdemeanor and upon conviction, is punishable
19 by a fine of not more than \$500 or by imprisonment for not more than 12 months,
20 or by both.”

21 **Section 3.** Section 13108A is added to Chapter 13, Title 2 of the Guam Code
22 Annotated.

23 **“§ 13108A. Special Cost of Living Economic Service.** (a) There shall be a
24 Special Cost of Living Economic Service (Service), which may collectively work
25 with the Special Economic Service. The Service shall be comprised of the
26 Chairman of *I Liheslaturan Guåhan*’s Committee on Ways and Means or
27 equivalent Standing Committee, who shall serve as the chairperson; the Director of

1 the Office of Finance and Budget, the Director of the Bureau of Budget and
2 Management Research; the Director of the Government of Guam Retirement Fund;
3 the Chief Economist of the Department of Labor; the Chief Economist of the
4 Bureau of Statistics and Plans; an Economist from the University of Guam; and a
5 representative from the Guam Chamber of Commerce appointed by the Speaker by
6 *I Liheslaturan Guåhan*. The chairperson may invite others to participate in
7 contributing to the Service. (b) The Service shall meet twice annually, on the first
8 Monday of February and June, to develop annually a “Guam Cost of Living Report
9 (Report) that links, at the minimum, consumer price indexes for housing rentals,
10 healthcare, food, transportation, utilities, and fuel costs to estimate Guam’s cost of
11 living. (c) The Report shall also contain a cost of living adjustment and a declining
12 sliding-scale COLA adjustment schedule to implement the “*Supplemental COLA*
13 *Adjustment Act*” (SCAA) for the succeeding fiscal year. (d) The Service shall use
14 at the date of enactment, § 5 of Chapter 11 of Public Law 32-181, which
15 implements a two thousand dollars (\$2,000) standard COLA, as a baseline, in
16 making Report recommended adjustments funding SCAA COLA adjustments. (e)
17 A declining sliding-scale schedule shall be included in the Report applied to a
18 retiree’s base retirement annuity commencing at forty thousand dollars
19 (\$40,000.00) with a designated cap. (f) The Report shall be delivered to *I*
20 *Maga’hågan Guåhan*, the Speaker of *I Liheslaturan Guåhan*, and digitally
21 published on the Office of Finance and Budget (OFB) website no later than the
22 first Monday of July. (g) Notwithstanding any law or rule, COLA adjusted
23 payments shall not be appropriated for the subsequent fiscal year without the
24 Report delivered and published.”

25 **Section 4. Severability.** If any portion of this Act is for any reason held
26 invalid or unconstitutional by any court of competent jurisdiction, such portion

1 shall be deemed a separate provision and shall not affect the validity of the
2 remaining portions of the Act.

3 **Section 5. Effective Date.** This Act shall take effect on the date of
4 enactment.