
A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by enacting a new chapter 15 to allow the Federated Development Authority to continue to manage certain funds received by the FSM under the original compact, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Title 55 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by enacting a
3 new chapter 15 entitled "Federated Development Authority".

4 Section 2. Title 55 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by enacting a
6 new section 1501 of chapter 15 to read as follows:

7 "Section 1501. Definitions. When used in this
8 chapter:

9 (1) "Authority" shall mean the Federated Development
10 Authority.

11 (2) "Fiscal Year" shall mean the 12-month period from
12 October 1 of one calendar year through September 30 of
13 the succeeding calendar year.

14 (3) "Nation" shall mean the Federated States of
15 Micronesia.

16 (4) "National Government" shall mean the National
17 Government of the Federated States of Micronesia and

1 includes all branches and agencies of the Government.

2 (5) "Net Earnings" shall be as defined in subsection
3 1508(6) of this chapter.

4 (6) "Original Compact" shall mean the Compact of Free
5 Association between the Government of the Federated
6 States of Micronesia and the Government of the United
7 States in the form that was effective as of November 3,
8 1986 through September, 2003.

9 (7) "Secretary" shall mean the Secretary of the
10 Department of Finance and Administration for the
11 Federated States of Micronesia, unless otherwise
12 specified herein.

13 (8) "State" shall mean any of the states of the
14 Federated States of Micronesia."

15 Section 3. Title 55 of the Code of the Federated States of
16 Micronesia, as amended, is hereby further amended by enacting a
17 new section 1502 of chapter 15 to read as follows:

18 "Section 1502. Federated Development Authority. This
19 subchapter shall pertain to the previously-established
20 entity known as the Federated Development Authority."

21 Section 4. Title 55 of the Code of the Federated States of
22 Micronesia, as amended, is hereby further amended by enacting a
23 new section 1503 of chapter 15 to read as follows:

24 "Section 1503. Purpose. The purpose of the Authority
25 shall be to provide an effective institutional framework

1 for the establishment of overall development goals,
2 policies and strategies for the Nation; the
3 rationalization and coordination and development efforts
4 throughout the Nation, so that State and national
5 development programs will be complementary and mutually
6 supportive, rather than duplicative or competitive; and
7 the sharing of information and technical resources to
8 ensure adequate program and project evaluation, design
9 and implementation."

10 Section 5. Title 55 of the Code of the Federated States of
11 Micronesia, as amended, is hereby further amended by enacting a
12 new section 1504 of chapter 15 to read as follows:

13 "Section 1504. Specific responsibilities of the
14 Authority.

15 (1) To set policy directions and guidelines to be
16 followed by the Secretary in the administration of the
17 investment of Original Compact funds.

18 (2) To provide guidelines, advice and assistance in
19 the formulation of economic development plans for the
20 Nation.

21 (3) To provide technical assistance upon request to
22 the State and National governments on a project-by-
23 project basis.

24 (4) To provide a means for all the governments to
25 share information and resource personnel.

1 (5) To assist in the coordination and solicitation of
2 aid and technical assistance from foreign governments
3 and international organizations."

4 Section 6. Title 55 of the Code of the Federated States of
5 Micronesia, as amended, is hereby further amended by enacting a
6 new section 1505 of chapter 15 to read as follows:

7 "Section 1505. General Powers of the Authority. The
8 Authority shall have the power:

9 (1) to adopt, alter and use a seal;

10 (2) to sue and be sued in its own name;

11 (3) to adopt and amend bylaws governing the conduct of
12 its business and the exercise of its powers;

13 (4) to enter into and perform such contracts, leases,
14 memoranda of understanding, or other transactions as may
15 be necessary in the conduct of its business and on such
16 terms as it may deem appropriate;

17 (5) to acquire, in any lawful manner, personal
18 property, either tangible or intangible; to hold,
19 maintain, use and operate such property; and to sell,
20 lease or otherwise dispose of such property;

21 (6) to retain and terminate the services of employees,
22 agents, attorneys, auditors, and independent
23 contractors, and require bonds for the faithful
24 performance of their duties and to pay the premiums for
25 such bonds;

1 (7) to determine the character of and the necessity
2 for its obligations and expenditures, subject to the
3 provisions of law applicable to the Authority;

4 (8) to execute all instruments necessary or
5 appropriate in the exercise of its power; and

6 (9) to do all such other things as may be deemed
7 incidental to, or conducive to, the attainment of the
8 responsibilities of the Authority."

9 Section 7. Title 55 of the Code of the Federated States of
10 Micronesia, as amended, is hereby further amended by enacting a
11 new section 1506 of chapter 1 to read as follows:

12 "Section 1506. Policy Board.

13 (1) The Authority shall be managed and its powers
14 exercised by the Policy Board. The Policy Board shall
15 consist of the chief executives of the State and
16 National Governments of the FSM. The Policy Board shall
17 appoint a Chairman for a term of one year, who may be
18 reappointed by action of the Board.

19 (2) Members of the Policy Board will be fiduciaries
20 with respect to the direction of investment policy and
21 supervision of the Secretary for all investment funds.

22 (3) The President and each Governor may designate in
23 writing a person to represent the National Government or
24 his State for Policy Board meetings and activities.

25 (4) A quorum shall consist of four representatives of

1 the Policy Board. No action shall be taken by the
2 Policy Board unless a quorum is present. Decisions of
3 the Board shall be made by majority vote.

4 (5) Members of the Policy Board shall not be entitled
5 to compensation."

6 Section 8. Title 55 of the Code of the Federated States of
7 Micronesia, as amended, is hereby further amended by enacting a
8 new section 1507 of chapter 15 to read as follows:

9 "Section 1507. Annual directive on investment policy.

10 (1) The Policy Board shall issue an annual directive
11 on investment policy to the Secretary no later than June
12 30 of each year for the upcoming Fiscal Year, providing
13 investment policy guidelines on all Original Compact
14 funds.

15 (2) The goal of investment policy shall be to maximize
16 investment returns while maintaining adequate liquidity
17 and high standards of safety and quality of assets, and
18 giving due consideration to the need to stimulate the
19 Nation's economy.

20 (3) Each member of the Board and each employee, agent,
21 and contractor of the Authority shall be considered a
22 "public official" as defined in title 11 of the Code of
23 the Federated States of Micronesia."

24 Section 9. Title 55 of the Code of the Federated States of
25 Micronesia, as amended, is hereby further amended by enacting a

1 new section 1508 of chapter 15 to read as follows:

2 "Section 1508. Investments.

3 (1) The Secretary and staff members designated by him
4 will be fiduciaries with respect to the management of
5 investment and disbursement of funds on behalf of the
6 States, the National Government and the Federated
7 Development Authority.

8 (2) The Secretary, with the concurrence of the
9 Authority Policy Board, may select and contract with a
10 public or private sector investment counsel to manage
11 the portfolio of investments. Such investment counsel
12 shall be a fiduciary with respect to the services
13 rendered. Such fiduciary relationship shall be
14 specified in a written agreement between the investment
15 counsel and the Secretary.

16 (3) Funds invested will include all Original Compact
17 funds prior to drawdown by the governments except
18 Original Compact section 221(b) funds.

19 (4) The Secretary will maintain an investment control
20 ledger with one account for each government.

21 (5) Funds may be invested on an aggregate basis.

22 (6) Net earnings on invested funds will be credited to
23 the account of each government based on the proportion
24 and duration of the funds of a given government in the
25 investment portfolio. "Net earnings" shall be defined

1 as the excess of interest earned over costs of
2 administering the investments."

3 Section 10. Title 55 of the Code of the Federated States of
4 Micronesia, as amended, is hereby further amended by enacting a
5 new section 1509 of chapter 15 to read as follows:

6 "Section 1509. Director of the Authority. The National
7 Planner, or his successor in the organizational
8 structure of the National Government, shall serve as the
9 director of the Authority and shall provide necessary
10 administrative support to the Authority."

11 Section 11. Title 55 of the Code of the Federated States of
12 Micronesia, as amended, is hereby further amended by enacting a
13 new section 1510 of chapter 15 to read as follows:

14 "Section 1510. Utilization of State and National
15 personnel by the Authority. The technical staff of the
16 Authority shall be drawn from the existing staff of the
17 State and National governments, to the extent
18 practicable. The director of the Authority may request
19 and assign technical staff from the governments for
20 temporary assignment with the Authority, with the cost
21 allocation of such assignment to be arranged by the
22 director."

23 Section 12. Title 55 of the Code of the Federated States of
24 Micronesia, as amended, is hereby further amended by enacting a
25 new section 1511 of chapter 15 to read as follows:

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