
A BILL FOR AN ACT

To renumber the erroneously numbered Chapter 5, entitled “Port Authority”, in Title 7 of the Kosrae State Code from Chapter 5 to Chapter 6; and to amend the new sections 7.606 and 7.608 thereby created so as to reflect the intended restructuring of the Port Authority; and to amend sections 7.503 and 7.506 of the Chapter 5 entitled “Visitors Bureau” so that those sections will have the wording in effect prior to the passage of S. L. 9-15; and for other purposes.

BE IT ENACTED BY THE KOSRAE STATE LEGISLATURE:

1 Section 1. Purpose. To renumber the erroneously numbered Chapter 5,
2 entitled “Port Authority”, in Title 7 of the Kosrae State Code from Chapter 5 to Chapter
3 6; and to amend the new sections 7.606 and 7.608 thereby created so as to reflect the
4 intended restructuring of the Port Authority; and to amend sections 7.503 and 7.506 of
5 the Chapter 5 entitled “Visitors Bureau” so that those sections will have the wording in
6 effect prior to the passage of S.L. 9-15.

7 Section 2. Amendment. The Chapter 5, Title 7 of the Kosrae State Code,
8 entitled “The Port Authority” is hereby renumbered and amended to read as follows:

9 “Chapter ~~5~~6. The Port Authority

10 Section 7.~~5~~601. The Port Authority. There is hereby established a public
11 Authority to be known as the Kosrae Port Authority, referred to in this chapter as the
12 “Authority”.

13 Section 7.~~5~~602. Powers and duties of the Authority. The Authority is vested with
14 the following powers and duties:

- 15 (1) To operate, manage, equip, and maintain all ports of entry into the State
16 including, the Okat and Lelu harbors and docks and the Okat airfield.
- 17 (2) To expand and improve upon the services offered at the ports of entry, and
18 where practicable, construct and operate new facilities to meet the
19 foreseeable demand for Authority services.
- 20 (3) To adopt and enforce regulations to effect the purposes of this chapter.

-
-
- 1 (4) To perform any inspections or examinations pursuant to Title 14, Chapters
2 2 and 11.
- 3 (5) To employ agents and employees, and enter into contracts for qualified
4 managers, experts or specialists to advise and assist the Authority and its
5 employees.
- 6 (6) To enter into contracts and leases for terms not exceeding 25 years. Any
7 other provision of law notwithstanding, the written concurrence of the
8 Governor and the approval of the Legislature in the same manner as
9 provided in Title 11, Section 11.101 shall be first secured by the Authority
10 before entering into any contract extending for more than one year or
11 which involves the payment or receipt of \$25,000 or more.
- 12 (7) The Authority shall procure insurance against liability or loss in
13 connection with its operations hereunder in such amounts and from such
14 insurers as it deems practicable.
- 15 (8) The Authority, on or before February 1st of each year, shall prepare and
16 submit to the Governor a written proposal of expenditures for the coming
17 fiscal year in a manner determined by the Governor. No expenditures
18 shall be made for a purpose not included in the adopted budget for that
19 fiscal year and no debt, obligation, or liability shall be incurred in any
20 period for which the budget was adopted in excess of the amounts
21 specified therein unless with the written approval of the Governor.
- 22 (9) The enumeration of specific powers and duties under this section shall not
23 be deemed to be exclusive.

24 Section 7.5603. Legal characteristics and capacity of the Authority. In
25 performing the responsibilities and duties authorized by this act or other laws of the State,

1 the Authority holds the capacity to exercise all powers reasonably necessary to discharge
2 its duties and responsibilities, including, but not limited to, the following:

3 (1) To adopt, alter, and use an official seal.

4 (2) To adopt and amend bylaws and other rules, regulations and directives
5 governing all aspects and duties granted to or imposed upon it by law. No
6 bylaw, rule or regulation, other than those covering the internal operation
7 of the Authority, is adopted without a public hearing.

8 (3) To establish procedures and policies to ensure timely payment and
9 collection of Authority bills.

10 (4) To sue and be sued as an entity; provided that satisfaction of judgments or
11 the settlement of claims on tort actions against the Authority may only be
12 paid out of contingency reserves or insurance held by the Authority and
13 not out of the other assets or operating capital of the Authority, and for
14 these purposes the doctrine of sovereign immunity is recognized and
15 maintained for this public Authority to the extent not expressly waived by
16 State law.

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

20 (6) To borrow or raise any sum or sums of money and to issue bonds on such
21 security and upon such terms as may from time to time be deemed
22 necessary for the expansion and improvement of Authority services.

23 (7) To retain and terminate the services of employees, agents, attorneys,
24 auditors, and independent contractors upon such terms and conditions as
25 the Authority deems appropriate.

1 Section 7.5604. Debts and obligations of the Authority. Unless otherwise
2 expressly provided by law, the debts and obligations of the Authority are
3 not the debts or obligations of the Kosrae State Government, and the
4 Kosrae State Government is not responsible for any such debts or
5 obligations.

6 Section 7.5605. Tax liability. The Authority exists and operates solely for the
7 benefit of the public and is exempt from any taxes or assessments on any of its property,
8 operations or activities imposed by the Kosrae State Government or local governments
9 or, to the extent allowable, the Government of the Federated States of Micronesia.
10 Nothing herein may be deemed to exempt employees and independent contractors of the
11 Authority from tax liability for services rendered to the Authority, and the Authority is
12 liable for employer's social security contributions in the manner provided by law. This
13 Section is repealed on October 1, 2005.

14 Section 7.5606. Composition of the Board; term. The Authority is governed by a
15 Board of five Directors. The Board is composed of four Directors appointed by the
16 Governor with the advice and consent of the Legislature, and, ex-officio, the Director of
17 the Department of ~~Public Works~~ Transportation and Infrastructure. An appointed
18 Director serves for a term of four years, subject to reappointment, and until his successor
19 has been appointed and qualifies. Initially, the Governor appoints two Directors to two
20 year terms and two Directors to four year terms. A vacancy is filled for the remainder of
21 the term for the vacated position.

22 Section 7.5607. Meetings of the Board. Within 15 days after the confirmation of
23 the initial Board, the Governor calls an organizational meeting for the purpose of electing
24 its officers. The Board meets and holds at least one public meeting each calendar quarter
25 and other public meetings as it may deem necessary for the transaction of its general

1 business.

2 Section 7.5608. Organization of the Board; quorum; compensation and expenses.

3 Pursuant to its bylaws, the Board organizes by electing one of its members as Chairman
4 and another as Vice-Chairman. The Board also designates from among its members a
5 Secretary to keep the minutes and records of the Board. Any three members of the Board
6 constitute a quorum, and a concurrence of three members is necessary for any official
7 action taken by the Board. No vacancy in the membership of the Board impairs the right
8 of a quorum to exercise all of the rights and perform all of the duties of the Board.

9 Directors are compensated at established rates when actually attending meetings of the
10 Board, except the Director of the Department of ~~Public Works~~ Transportation and
11 Infrastructure who does not receive additional compensation. All Directors receive travel
12 expenses and per diem at Kosrae State Government rates when these amounts would be
13 payable to Kosrae State Government employees in the same circumstances.

14 Section 7.5609. Appointment of General Manager; removal. The Board appoints
15 a General Manager and fixes his compensation. The General Manager has full charge
16 and control of the operation and maintenance of all the Authority facilities and other real
17 and personal property controlled by the Authority, and of construction of any facilities,
18 and necessary work on vehicles, vessels and equipment controlled by or required to be
19 rebuilt or repaired by the Authority. The Board may remove the General Manager for
20 good cause upon a majority vote. During any period when the position of General
21 Manager is vacant, the position is temporarily filled from within the organization
22 pursuant to its rules and regulations.

23 Section 7.5610. Duties of the General Manager. The General Manager of the
24 Authority has the following duties:

25 (1) To ensure that all laws and regulations pertaining to the ports of entry into

1 the State are complied with.

2 (2) To attend all meetings of the Board and to submit a general report on the
3 affairs of the Authority.

4 (3) To keep the Board advised on the needs of the Authority.

5 (4) To approve demands for payment of obligations for the purposes and
6 within amounts authorized by the Board.

7 (5) To prepare or have prepared all plans and specifications for the
8 construction and repair of facilities, vehicles, vessels, and equipment
9 operated by the Authority.

10 (6) To manage the daily business of the Authority; to select and appoint the
11 employees of the Authority except as otherwise provided in this act; to
12 contract with independent contractors; and to plan, organize, coordinate
13 and control the services of such employees and contractors in the exercise
14 of the powers of the Authority under the general direction of the Board.

15 (7) To publish within 60 days after the end of each fiscal year, in the manner
16 required by the Board, a complete financial and operations statement
17 showing the result of operations for the preceding fiscal year and the
18 financial status of the Authority on the last day thereof.

19 (8) To perform such other and additional duties as the Board may require.

20 Section 7.5611. Appointment of comptroller and general counsel; duties of each.

21 The General Manager appoints a comptroller and a general counsel, both of whom report
22 to the General Manager. The comptroller and the general counsel may be terminated for
23 good cause by the General Manager. The comptroller and the general counsel are
24 compensated at rates determined by the Board. Such officers may be full-time employees
25 of the Authority, shared with the Kosrae State Government, or be placed on retainer from

1 the private sector. The General Manager may appoint one or more assistants to any such
2 office.

3 (1) The comptroller has custody of all monies of the Authority and pays out
4 such money only in accordance with the direction of the Board and as
5 provided in the annual budget of the Authority.

6 (2) The general counsel advises the Board and the General Manager in all
7 legal matters to which the Authority is a party or in which the Authority is
8 legally interested and may represent the Authority.

9 Section 7.5612. Accounting and reporting. The Board adopts and maintains a
10 system of accounting which is in accordance with generally accepted accounting
11 principles applicable to public corporations. The system adopted requires:

12 (1) That the Board employ a firm of independent certified public accountants
13 who examine and report upon to the Board, at least annually, all financial
14 records and accounts maintained by the Authority, and that copies of such
15 reports are furnished to the Governor and the Legislature, and

16 (2) That the Board present to the Governor and the Legislature an annual
17 report on the affairs of the Authority within 60 days after the end of each
18 fiscal year and, when requested by the Governor or the Legislature,
19 present special reports within 30 days after the end of each intervening
20 quarter.

21 Section 7.5613. Budget preparation. In consultation with the Board, the General
22 Manager prepares in advance of each fiscal year an annual budget for the Authority. The
23 Authority uses the same fiscal calendar as the Kosrae State Government.

24 Section 7.5614. Supplemental budget requests. To the extent that the Board
25 deems it necessary and advisable, the Authority is authorized to seek grants and loans

1 from the Legislature and, to the extent approved by the Governor, grants from sources
2 outside of the State, of such funds as are necessary to supplement revenues to provide for
3 the operation, maintenance, and expansion of Authority services in the State.

4 Section 7.5615. Procurement Manual of Administration. The Board adopts
5 procurement regulations and establishes a Manual of Administration for the Authority
6 including rules and regulations governing the selection, promotion, performance
7 evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of
8 the Authority.

9 Section 7.5616. Public Service System exemption; eligibility for insurance plans,
10 retirement funds and workers compensation funds. The employees of the Authority shall
11 be exempt from the provisions of the Public Service System of Title 18 of this code.
12 Employees of the Authority are eligible to participate in any health insurance plan, life
13 insurance plan, retirement fund, and workmen's compensation fund available to Kosrae
14 State Government employees. The Authority contributes to such programs as determined
15 by the governing authorities thereof.

16 Section 7.5617. Transition.

17 (1) Following organization of the Authority, the State transfers to the
18 Authority all port of entry facilities and grounds, along with all equipment
19 and supplies therefor on terms mutually agreed to by the State and the
20 Authority.

21 (2) All State employees employed in the Division of Airport, Docks and
22 Harbor at the time of the organization of the Authority shall be allowed to
23 voluntarily transfer to the Authority. At such time, the Authority assumes
24 the payroll expenses of transferred employees and credits such employees
25 with the sick leave and personal leave accrued with the State.

1 (3) All deeds, bonds, agreements, instruments and working arrangements
2 existing immediately before the effective date of this act which affect any
3 undertaking transferred hereby will continue in full force and effect
4 against or in favor of the Authority.

5 (4) Any proceedings or cause of action pending or existing immediately
6 before the effective date of this act by or against the State or any person
7 acting on behalf of the State which pertains to any undertaking transferred
8 hereby may be continued or enforced by or against the Authority. Any
9 causes of action stemming from conditions existing at the time of the
10 transfer may be enforced by or against the Authority. The Authority
11 agrees to hold the State harmless and indemnify the State from all claims,
12 demands, and lawsuits from any action described in this subsection.

13 (5) All transfers are accomplished without disruption of port services which
14 will continue at levels at least equal to those provided at the time of the
15 transfer.

16 (6) Title 10 of the Kosrae Code will apply to the Authority until Section 7.512
17 is fully complied with as certified by the firm of independent certified
18 public accountants employed by the Authority.

19 Section 3. Amendment. Section 7.503 is hereby amended to read as follows:

20 “ ~~Section 7.503 Composition of the Board; term. The Bureau is governed by a Board of~~
21 ~~five Directors. The Board is composed of four Directors appointed by the Governor with the~~
22 ~~advice and consent of the Legislature, and, ex officio, the Director of the Department of~~
23 ~~Transportation and Infrastructure. An appointed Director serves for a term of four years, subject~~
24 ~~to reappointment, and until his successor has been appointed and qualifies. Initially, the Governor~~
25 ~~appoints two Directors to two year terms and two Directors to four year terms. A vacancy is filled~~

1 ~~for the remainder of the term for the vacated position.~~

2 Section 7.503. Board of Directors; composition and term.

3 (1) The State Visitors Bureau shall be governed by a Board of Directors. The
 4 Board of Directors shall consist of five members, all appointed by the
 5 Governor of Kosrae with the advice and consent of the State Legislature.
 6 Three of the board members shall be members of the private sector whose
 7 primary occupations are in the tourism industry.

8 (2) The Board of Directors shall serve a term of four years each. In case of a
 9 vacancy, a replacement shall be appointed by the Governor with the
 10 advice and consent of the Legislature.

11 (3) The Governor shall make the appointments to the initial Board of
 12 Directors within 60 days of the effective date of this act.”

13 Section 4 Amendment Section 7.506 is amended to read as follows:

14 ~~“Section 7.506. Organization of the Board; quorum; compensation and expenses.~~
 15 ~~Pursuant to its bylaws, the Board organizes by electing one of its members as Chairman and~~
 16 ~~another as Vice Chairman. The Board also designates from among its members a Secretary~~
 17 ~~to keep the minutes and records of the Board. Any three members of the Board constitute a~~
 18 ~~quorum, and a concurrence of three members is necessary for any official action taken by the~~
 19 ~~Board. No vacancy in the membership of the Board impairs the right of a quorum to exercise~~
 20 ~~all of the rights and perform all of the duties of the Board. Directors are compensated at~~
 21 ~~established rates when actually attending meetings of the Board, except the Director of the~~
 22 ~~Department of Transportation and Infrastructure who does not receive additional~~
 23 ~~compensation. All Directors receive travel expenses and per diem at Kosrae State~~
 24 ~~Government rates when these amounts would be payable to Kosrae State Government~~
 25 ~~employees in the same circumstances.”~~

1 Section 7.506. Organization of the Board; quorum; compensation and expenses. The
2 Board organizes by electing one of its members as Chairman and another as Vice-
3 Chairman. The Board also designates from among its members a Secretary to keep
4 the minutes and records of the Board. Any three members of the Board constitute a
5 quorum, and a concurrence of three members is necessary for any official action
6 taken by the Board. No vacancy in the membership of the Board impairs the right of
7 a quorum to exercise all of the rights and perform all of the duties of the Board.
8 Directors shall not receive compensation for their services. Directors may receive
9 compensation for travel expenses and per diem at Kosrae State Government rates
10 when these amounts would be payable to Kosrae State Government employees in the
11 same circumstances.”

12 Section 5. Effective Date. This Act takes effect upon approval by the Governor or
13 upon its becoming law without such approval.

14
15
16
17
18
19
20 Date: _____

Introduced by: _____
Semeon Phillip (By Request)