

KSC, TITLE 7. AGENCIES & GOV'T FINANCED ENTERPRISES

Chapter 6. The Port Authority

Background

Former Chapter 6, establishing the Health Board, was repealed by State Law 6-1.

Former Chapter 5, establishing the Executive Service Appeals Board, was repealed by State Law 6-158. State Law 7-62 added the Kosrae Visitors Bureau as Chapter 14. State Law 7-95 renumbered those provisions under Chapter 5 in this Code. But State Law 7-91 also enacted a Chapter 5 establishing the Kosrae Port Authority. Since there are two sets of Chapter 5 provisions, the latter Chapter 5 on The Port Authority has been relocated to the vacant Chapter 6 pending approval of this relocation by the Code Revision and Publication Commission. The sections of this chapter have been renumbered accordingly.

Section 7.601. The Port Authority.

Section 7.602. Powers and duties of the Authority.

Section 7.603. Legal characteristics and capacity of the Authority.

Section 7.604. Debts and obligations of the Authority.

Section 7.605. Tax liability.

Section 7.606. Composition of the Board; term.

Section 7.607. Meetings of the Board.

Section 7.608. Organization of the Board quorum; compensation and expenses.

Section 7.609. Appointment of General Manager; removal.

Section 7.610. Duties of the General Manager.

Section 7.611. Appointment of comptroller and general counsel; duties of each.

Section 7.612. Accounting and reporting.

Section 7.613. Budget preparation.

Section 7.614. Supplemental budget requests.

Section 7.615. Procurement Manual of Administration.

Section 7.616. Public Service System exemption; eligibility for insurance plans, retirement funds and workers compensation funds.

Section 7.617. Transition.

Section 7.601. The Port Authority.

There is hereby established a public Authority to be known as the Kosrae Port Authority, referred to in this chapter as the "Authority".

Background

Added by State Law 7-91.

Section 7.602. Powers and duties of the Authority.

The Authority is vested with the following powers and duties:

- (1) To operate, manage, equip, and maintain all ports of entry into the State including, the Okat and Lelu harbors and docks and the Okat airfield.
- (2) To expand and improve upon the services offered at the ports of entry, and where practicable, construct and operate new facilities to meet the foreseeable demand for Authority services.
- (3) To adopt and enforce regulations to effect the purposes of this chapter.
- (4) To perform any inspections or examinations pursuant to [11](#).
- (5) To employ agents and employees, and enter into contracts for qualified managers, experts or

specialists to advise and assist the Authority and its employees.

(6) To enter into contracts and leases for terms not exceeding 25 years. Any other provision of law notwithstanding, the written concurrence of the Governor and the approval of the Legislature in the same manner as provided in [Title 11, Section 11.101](#) shall be first secured by the Authority before entering into any contract extending for more than one year or which involves the payment or receipt of \$25,000 or more.

(7) The Authority shall procure insurance against liability or loss in connection with its operations hereunder in such amounts and from such insurers as it deems practicable.

(8) The Authority, on or before February 1st of each year, shall prepare and submit to the Governor a written proposal of expenditures for the coming fiscal year in a manner determined by the Governor. No expenditures shall be made for a purpose not included in the adopted budget for that fiscal year and no debt, obligation, or liability shall be incurred in any period for which the budget was adopted in excess of the amounts specified therein unless with the written approval of the Governor.

(9) The enumeration of specific powers and duties under this section shall not be deemed to be exclusive.

Background

Added by State Law 7-91.

Section 7.603. Legal characteristics and capacity of the Authority.

In performing the responsibilities and duties authorized by this act or other laws of the State, the Authority holds the capacity to exercise all powers reasonably necessary to discharge its duties and responsibilities, including, but not limited to, the following:

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

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

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

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

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

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

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

Background

Added by State Law 7-91.

Section 7.604. Debts and obligations of the Authority.

Unless otherwise expressly provided by law, the debts and obligations of the Authority are not the debts or obligations of the Kosrae State Government, and the Kosrae State Government is not responsible for any such debts or obligations.

Background

Added by State Law 7-91.

Section 7.605. Tax liability.

The Authority exists and operates solely for the benefit of the public and is exempt from any taxes or assessments on any of its property, operations or activities imposed by the Kosrae State Government or local governments or, to the extent allowable, the [Government of the Federated States of Micronesia](#).

Nothing herein may be deemed to exempt employees and independent contractors of the Authority from tax liability for services rendered to the Authority, and the Authority is liable for employer's social security contributions in the manner provided by law. This Section is repealed on October 1, 2005.

Background

Added by State Law 7-91.

Section 7.606. Composition of the Board; term.

The Authority is governed by a Board of five Directors. The Board is composed of four Directors appointed by the Governor with the advice and consent of the Legislature, and, ex-officio, the Director of the Department of Public Works. An appointed Director serves for a term of four years, subject to reappointment, and until his successor has been appointed and qualifies. Initially, the Governor appoints two Directors to two year terms and two Directors to four year terms. A vacancy is filled for the remainder of the term for the vacated position.

Background

Added by State Law 7-91.

Section 7.607. Meetings of the Board.

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

Background

Added by State Law 7-91.

Section 7.608. Organization of the Board; quorum; compensation and expenses.

Pursuant to its bylaws, the Board organizes by electing one of its members as Chairman and another as Vice-Chairman. The Board also designates from among its members a Secretary to keep the minutes and records of the Board. Any three members of the Board constitute a quorum, and a concurrence of three members is necessary for any official action taken by the Board. No vacancy in the membership of the Board impairs the right of a quorum to exercise all of the rights and perform all of the duties of the Board. Directors are compensated at established rates when actually attending meetings of the Board, except the Director of the Department of Public Works who does not receive additional compensation. All Directors receive travel expenses and per diem at Kosrae State Government rates when these amounts would be payable to Kosrae State Government employees in the same circumstances.

Background

Added by State Law 7-91.

Section 7.609. Appointment of General Manager; removal.

The Board appoints a General Manager and fixes his compensation. The General Manager has full

charge and control of the operation and maintenance of all the Authority facilities and other real and personal property controlled by the Authority, and of construction of any facilities, and necessary work on vehicles, vessels and equipment controlled by or required to be rebuilt or repaired by the Authority. The Board may remove the General Manager for good cause upon a majority vote. During any period when the position of General Manager is vacant, the position is temporarily filled from within the organization pursuant to its rules and regulations.

Background

Added by State Law 7-91.

Section 7.610. Duties of the General Manager.

The General Manager of the Authority has the following duties:

- (1) To ensure that all laws and regulations pertaining to the ports of entry into the State are complied with.
- (2) To attend all meetings of the Board and to submit a general report on the affairs of the Authority.
- (3) To keep the Board advised on the needs of the Authority.
- (4) To approve demands for payment of obligations for the purposes and within amounts authorized by the Board.
- (5) To prepare or have prepared all plans and specifications for the construction and repair of facilities, vehicles, vessels, and equipment operated by the Authority.
- (6) To manage the daily business of the Authority; to select and appoint the employees of the Authority except as otherwise provided in this act; to contract with independent contractors; and to plan, organize, coordinate and control the services of such employees and contractors in the exercise of the powers of the Authority under the general direction of the Board.
- (7) To publish within 60 days after the end of each fiscal year, in the manner required by the Board, a complete financial and operations statement showing the result of operations for the preceding fiscal year and the financial status of the Authority on the last day thereof.
- (8) To perform such other and additional duties as the Board may require.

Background

Added by State Law 7-91.

Section 7.611. Appointment of comptroller and general counsel; duties of each.

The General Manager appoints a comptroller and a general counsel, both of whom report to the General Manager. The comptroller and the general counsel may be terminated for good cause by the General Manager. The comptroller and the general counsel are compensated at rates determined by the Board. Such officers may be full-time employees of the Authority, shared with the Kosrae State Government, or be placed on retainer from the private sector. The General Manager may appoint one or more assistants to any such office.

- (1) The comptroller has custody of all monies of the Authority and pays out such money only in accordance with the direction of the Board and as provided in the annual budget of the Authority.
- (2) The general counsel advises the Board and the General Manager in all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority.

Background

Added by State Law 7-91.

Section 7.612. Accounting and reporting.

The Board adopts and maintains a system of accounting which is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted requires:

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

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

Background

Added by State Law 7-91.

Section 7.613. Budget preparation.

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

Background

Added by State Law 7-91.

Section 7.614. Supplemental budget requests.

To the extent that the Board deems it necessary and advisable, the Authority is authorized to seek grants and loans from the Legislature and, to the extent approved by the Governor, grants from sources outside of the State, of such funds as are necessary to supplement revenues to provide for the operation, maintenance, and expansion of Authority services in the State.

Background

Added by State Law 7-91.

Section 7.615. Procurement Manual of Administration.

The Board adopts procurement regulations and establishes a Manual of Administration for the Authority including rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Authority.

Background

Added by State Law 7-91.

Section 7.616. Public Service System exemption; eligibility for insurance plans, retirement funds and workers compensation funds.

The employees of the Authority shall be exempt from the provisions of the [Public Service System of Title 18](#) of this code. Employees of the Authority are eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workmen's compensation fund available to Kosrae State Government employees. The Authority contributes to such programs as determined by the governing authorities thereof.

Background

Added by State Law 7-91.

Section 7.617. Transition.

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

by the State and the Authority.

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

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

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

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

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

Background

Added by State Law 7-91.