

YSC, Title 18. Conservation & Resources

Chapter 7: Southern Yap Water Authority

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Subchapter I: General Provisions

[§701.](#) Short title.

[§702.](#) Purpose.

§701. Short title.

This chapter shall be known and may be cited as the "Southern Yap Water Authority Act of 1986".

Source: YSL 1-221 §1, modified.

Cross-reference: The statutory provisions of the Gagil-Tomil Water Authority are found in [chapter 6 of this title](#).

§702. Purpose.

The purpose of this chapter is to create an authority to operate and maintain the Southern Yap Water System.

Source: YSL 1-221 §2, modified.

Subchapter II: The Authority

[§711.](#) Southern Yap Water Authority.

[§712.](#) Powers.

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§711. Southern Yap Water Authority.

There is hereby created an authority to be designated and known as the Southern Yap Water Authority, hereinafter referred to as the Authority. The Authority's functions shall be governmental and public and it shall have the right to sue and be sued in its own name.

Source: YSL 1-221 §3, modified.

Cross-reference: The statutory provisions on Civil Proceedings are found in Title 31 of this Code.

§712. Powers.

The Authority, in addition to the powers and duties elsewhere conferred and imposed, shall have the following duties and powers:

(a) The Authority shall have the power to adopt and enforce rules and regulations concerning its operations.

(b) The Authority shall carry on the business of establishing, developing, maintaining, operating and managing the Southern Yap Water System with all powers incident thereto.

(c) The Authority may purchase, lease, and sell real or personal property, supplies, goods, materials, and commodities and to furnish and supply services as incident to its operations. It may procure insurance against liability or loss in connection with its operations hereunder in such amounts and from such insurers as it deems advisable.

(d) The Authority, in operating facilities and properties owned, leased, or controlled by it, may enter into contracts, leases, and other arrangements with any persons.

(e) The Authority may contract with any person, firm or corporation for the planning, supervision, financing, construction, operation and maintenance of, or may itself construct or otherwise acquire, operate and maintain all structures or improvements which, in its judgment are useful, desirable or convenient in efficiently operating and maintaining facilities and properties. The Authority may also enter into agreements with the Governments of the State of Yap or the Federated States of Micronesia for the rendering of services to the Authority.

(f) The Authority shall have the free use of the State Government pouch mails.

(g) The Authority, including but not limited to its franchise, capital, obligations, including interest thereon, reserves, surplus, loans, income, assets, and property of any kind shall be exempt from all taxation now or hereafter required or imposed by the State, or any political subdivision or taxing authority of the State.

(h) The Authority may apply for, accept and expend all monies made available by grants, loans or both by the Governments of the United States, Trust Territory, Federated States of Micronesia, Yap State, or other sources in the interest of the system. Unless otherwise prescribed by the agency from which such monies are received, the chief financial officer of the Authority shall deposit all monies pursuant to this Subsection in a separate denominated account.

(i) The Authority shall maintain such records, libraries, research materials, administrative or office materials and other property, real or personal, deemed to be necessary to enable the Authority to carry out the purposes of this chapter.

(j) The fiscal year of the Authority shall correspond to that of the State.

(k) The Authority may employ agents and employees, and contract for the services of qualified managers, specialists or experts, as individuals or an organization, to advise and assist the Authority and its employees. The Authority or its designee may request and the Governor may assign State employees to assist the Authority or employees thereof to carry out activities of the Authority.

(l) The Authority may perform any other lawful acts deemed to be in the best interest of the System.

Source: YSL 1-221 §4, modified.

Cross-reference: The statutory provisions on Public Property, Purchasing and Contracts are found in Title 9 of this Code.

§713. Authority exempt from taxation.

As an instrumentality of the State Government, the Authority and all property acquired by or used by it, and all revenues and income therefrom, are exempt from taxation of the State or of any political subdivision or public corporation thereof.

Source: YSL 1-221 §12, modified.

Cross-reference: [Section 3 of Article IX of the Yap Constitution](#) states: "The property of the State Government or its political subdivisions shall be exempt from taxation."

§714. Insurance policies and sovereign immunity.

To the extent that any liability of the State or of the Authority is covered by policy or policies of insurance, the Government waives its limitation of liability.

(a) All claims made against any policy of insurance purchased by the Authority shall be made in accordance with the procedures and time limitations set forth in the policy or policies of insurance, except that all claims shall be presented to the Manager of the Authority, who shall promptly present the same to the Attorney General of the State for review and to the carriers, or to their designated agents for processing at the advice of the Attorney General, and no policy shall place a time limit on filing claims of less than six months.

(b) In the event of any dispute, the Attorney General shall represent the interest of the Authority, unless the Attorney General cannot legitimately represent the Authority, at which time the Authority may hire an independent attorney to represent the interests of the Authority.

(c) Each policy of insurance written severing the Authority on its interest shall contain a clause waiving any defense of sovereign immunity which may be raised against the payment of the claim by carrier up to the limits of the policy.

Source: YSL 1-221 §16, modified.

§715. No financial interest by members.

No director, officer, or employee of the Authority, either for himself or as agent for anyone else, shall benefit directly or indirectly by reason of sale, purchase, contract or transaction entered into by the Authority except as otherwise provided by this chapter. Any person who shall directly or indirectly become interested in any such sale, purchase, contract or transaction while serving as a Director, officer, or employee of the Authority shall be guilty of a misdemeanor. Immediately upon conviction of a violation thereof, said person shall forfeit his office or position. Upon the filing of a complaint of such misdemeanor, the Board in its judgment may suspend the services of the charged person pending final determination thereof. Upon conviction thereof, he shall be punished by a fine not to exceed \$2,000.00, or imprisonment not to exceed one year, or both.

Source: YSL 1-221 §17, modified.

Cross-reference: The constitutional provision on the prohibition of use of government revenue, property, or service for personal benefit or gain is found in [Yap Const., Art. XIV](#), Sect. 4. That section states: "No person may receive, use, or benefit from any government revenue, property, or service for personal benefit or gain, except as may be permitted by law."

§716. State may assist Authority in carrying out its functions.

For the purpose of aiding in the planning, undertaking or carrying out of the provisions of this chapter, and the subsequent operation of the Authority, the State or any agency thereof, with the consent of the Governor, may:

(a) Sell, convey, or lease any of its interest in any real or personal properties, rights, or privileges

that it may have, to the Authority;

(b) Incur expenses on behalf of the Authority subject to reimbursement under such terms and conditions as may be agreed upon with the Authority;

(c) Lend or advance, grant or contribute funds to the Authority and provide for or waive the repayment of any such loan or advance;

(d) Contract with or furnish services to the Authority upon the terms and conditions as may be agreed upon; and

(e) Do any and all things necessary to aid in the planning or carrying out of the duties, powers and obligations of the Authority.

Source: YSL 1-221 §19, modified.

§717. Intervention.

The Governor may intervene in the affairs of the Authority if it is in the interest of the public.

Source: YSL 1-221 §20, modified.

Cross-reference: The constitutional provisions on the Executive are found in [Yap Const., Art. VI](#). The statutory provisions on the [Executive are found in Title 3](#) of this Code.

Subchapter III: The Board

§741. Composition of the Board.

§742. Meetings of the Board.

§743. Organization of the Board.

§744. Appointment of managers; duties.

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§750. Employees rights.

§751. Authority exempt from execution and bond requirements.

§752. Designation of depository for Authority.

§741. Composition of the Board.

All powers vested in the Authority shall be exercised by the Board, which shall consist of six members, called Directors. One member shall be appointed by the Governor for a term of four years. Two members shall be appointed by the Municipal Chief of Rull on the Council of Pilung, one of whom shall be from either Lamer or Luwech Villages. The municipal chiefs of Gilman, Kanifay, and Dalipebinaw on the Council of Pilung shall each appoint one of the three remaining members to represent his Municipality on the Board. Members of the Council of Pilung shall not be members of the Board. Except for the member appointed by the Governor, the members of the Board shall serve for three years unless reappointed to serve for additional terms and shall be a resident of an area that benefits from the water system.

Source: YSL 1-221 §5, as amended by YSL 2-36 §1, modified.

Cross-reference: The statutory provisions on Traditional Leaders and Traditions are found in Title 5 of this Code. The

statutory provisions on Local Government are found in Title 6 of this Code.

§742. Meetings of the Board.

Within 30 days after the appointment of initial Board, the Board shall hold a meeting for the purpose of electing its officers for the ensuing years. The Board shall meet at least every three months and shall hold public meetings as the Board deems necessary for the transaction of its business. All vacancies occurring in the Office of the Director shall be filled by the appropriate appointing entity for the unexpired term of the Director whose vacancy is being filled.

Source: YSL 1-221 §6, modified.

§743. Organization of the Board.

The Board shall organize by electing from among its members a Chairman, a Vice-Chairman and a Secretary. Three members of the Board shall constitute a quorum, and a concurrence of a simple majority of the quorum shall be necessary for any official action by the Board unless otherwise provided herein.

Source: YSL 1-221 §7, modified.

§744. Appointment of managers; duties.

The Board shall appoint a Manager and an Assistant Manager who shall work at the direction and pleasure of the Board. The Board shall fix their compensations.

Source: YSL 1-221 §8, modified.

§745. Powers and duties of manager.

The Manager shall have the following duties and powers:

- (a) To ensure that all rules and regulations of the Authority are enforced;
- (b) To keep the Board advised on the needs and status of the System;
- (c) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;
- (d) To prepare all plans and specifications for the operation and maintenance of facilities operated by the Authority;
- (e) To devote his entire time to the business of the Authority;
- (f) To cause to be published within 60 days after the end of each fiscal year a financial status of the Authority, which publication shall be made in the manner provided by the Board; and
- (g) To perform such other and additional duties as the Board may require.

Source: YSL 1-221 §9, modified.

§746. Appointment of Treasurer; duties.

The Board may also appoint a Treasurer who shall serve at the pleasure of the Board and whose duties and compensation shall be fixed by the Board. The Treasurer shall have custody of all monies of the Authority, and shall pay out such money only in accordance with the direction of the Board or as otherwise provided by this chapter. The Board shall appoint any designated agent as its trustee for payment of bonds issued by it and for related purposes as the Board may provide.

Source: YSL 1-221 §10, modified.

§747. Attorneys: duties.

The Authority shall use the services of the attorneys for the State. In cases of conflict, the Board may appoint such attorney or attorneys as it may deem necessary and pay for legal services rendered. All official documents, contracts, bonds and other instruments in writing shall be approved as to form and legality by the attorneys advising the Authority. Such approval may be conclusively evidenced by the signature thereon of one of said attorneys.

Source: YSL 1-221 §11, modified.

Cross-reference: The statutory provision on the Office of the Attorney General are found in [section 128 of Title 3 \(Executive\)](#) of this Code.

§748. Contract letting by the Board.

The purchase of all supplies and materials, and the construction of all works, when the expenditures exceed \$2,500.00, shall be by contract let to the lowest responsible bidder in compliance with procedures of the [State Contracts Act found in chapter 5 of Title 9](#) of this Code. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(a) If, after rejection of bids for materials and supplies the Board determines that the materials may be purchased at a lower price in the open market, the Board may authorize such purchases without further observance of the provisions requiring contracts, bids or notices. The Authority, as an instrumentality of the State Government, may utilize the services of State purchasing agencies wherever practical.

(b) No Director shall have any financial interest, direct or indirect, in any contract awarded by the Board. This provision shall not apply to contracts awarded to a corporation in which such Director owns less than five percent (5%) of the entire stock. The Board shall establish procedures for the timely verification of this restriction by its attorney.

Source: YSL 1-221 §13, modified.

Cross-reference: The statutory provisions on Public Property, Purchasing and Contracts are found in Title 9 of this Code.

§749. Accounting and reporting; establishment of fund.

The Board shall adopt and maintain a system of accounting principles.

(a) The Board may use the State certified public accountants who shall examine and report to the Board, at least annually, upon the status of the financial records and accounts maintained by the Authority. The Board may employ a firm of independent certified public accountants for its purpose if it cannot utilize the State's accountants. Copies of any such reports shall be furnished to the Governor, the Legislature, the municipal chiefs of Gilman, Kanifay, Dalipebinaw and Rull on the Council of Pilung.

(b) The Board shall present an annual report to the Governor and the Legislature of the affairs of the Authority within 60 days after the end of each fiscal year. If requested by the Governor or the Legislature, it shall also present special reports within 30 days after any such request.

(c) There is hereby established a fund that shall be known as the "Southern Yap Water Authority Fund" which shall be maintained separate and apart from other funds of the State by the Authority, and independent records and accounts shall be maintained in connection therewith.

(d) All monies received by the Authority from whatever sources derived shall be deposited in said fund, or in such funds as may be established pursuant to this chapter, in eligible banks as defined in this chapter, and the monies shall not revert to the General Fund of the State of Yap.

(e) All expenditures, except as otherwise provided by law, shall be made from said Southern Yap Water Authority Fund.

Source: YSL 1-221 §14, as amended by YSL 2-59 §1, modified.

Cross-reference: The statutory provisions on Taxation and Finance are found in Title 13 of this Code.

§750. Employees rights.

The Board may establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Authority.

Source: YSL 1-221 §15, modified.

Cross-reference: The statutory provisions on Public Officers and Employment are found in Title 8 of this Code.

§751. Authority exempt from execution and bond requirements.

No execution shall be issued or levied by virtue of any judgment that may be recovered against the Authority, but the Board may provide for the payment of judgments from future revenues of the Authority after final recovery of any judgment or by the payment out of any funds on hand and uncommitted. Land, improvements, monies, or debts due the Authority, personal and real property, or assets of every description, belonging to the same, shall be exempted from execution and sale, and from involuntary liens. No writ of garnishment or attachment shall issue against the Authority or the Directors thereof, or its officers or employees, or to subject or cause any debts due, or which may hereafter become due from the Authority, to be paid to any person or corporation, or any claim or demand upon any funds in the hands of the Authority or any of its officers, nor shall the Authority, or the Board or any of its officers or agents be required to answer any writ of garnishment. The Authority shall not be required to give any bond as security for cost, supersedeas, or any security in any suit or action brought by or against it, or in proceedings to which it may be a party in any court in the State, and the Authority shall have the remedies of appeal and writ of error to all courts without bond, supersedeas, or security of any kind. No builder's, materialman's, contractor's, laborer's or mechanic's lien of any kind or character shall ever attach to or become a lien upon any property, real or personal, belonging to the Authority. No assignment of wages shall be binding upon the Board.

Source: YSL 1-221 §18, modified.

§752. Designation of depository for Authority.

The Board shall designate one or more insured banks within the State to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks.

Source: YSL 1-221 §21, modified.

Subchapter IV: Miscellaneous Provisions

§781. Transition.

§782. Severability.

§781. Transition.

The Authority shall assume all the duties, responsibilities and liabilities intended therefor by this chapter upon certification by the Governor that the Authority is capable of performing and accepting said duties, responsibilities, and liabilities.

Source: YSL 1-221 §23, modified.

§782. Severability.

If any provision of this chapter or any rule, regulation, or order promulgated, or the application of any such provision, rule, regulation, or order to any person or circumstances shall be held invalid, the remainder of this chapter, or any rules, regulations, or order promulgated pursuant thereto, or the application of such provisions, regulations, rules or orders to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Source: YSL 1-221 §22, modified.