
AN ACT

To provide for the future operation and supply of the State's Micro vessels, to terminate an existing agreement for the operation of the Micro vessels, to vest the future operation and supply of the said vessels in the Department of Transportation of the State of Chuuk, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1 Section 1. Findings. It is the finding of the
2 Legislature that the existing arrangements for the operation
3 and supply of the State's Micro vessels are not functioning
4 properly. The State entered into an Agreement on March 8,
5 1993, which was and is unfair, and should not continue in
6 force. The Legislature finds, with regard to that Agreement,
7 that:

8 (a) The Director of the Department of Transportation
9 was not consulted about the Agreement before it was
10 entered into by the State;

11 (b) The Agreement was entered into without complying
12 with the bidding procedures of the Public Contracts Act,
13 T.S.L.No. 5-83;

14 (c) There were and are conflicts of interest for
15 certain officials of the State who were involved in
16 entering into the Agreement, which conflicts of interest
17 may have influenced the negotiation of the terms of the
18 Agreement;

19 (d) Paragraph (5) of the Agreement contains a
20 provision which imposes a late charge fee on the State of
21 10% per day, which the Legislature finds is grossly
22 exorbitant and unfair to the State, and is not a late
23 charge but a forfeiture clause;

24 (e) The private party to the Agreement has
25 violated paragraphs (5) and (6) (b) of the Agreement in
26 that it has not been providing paid receipts when
27 applying for payments under the Agreement, as required by

1 those paragraphs of the Agreement;

2 (f) Paragraphs (5) and (6) of the Agreement
 3 raised the commission on provisioning from 10% in the
 4 former contract to 20% without apparent justification;

5 (g) The previous contract for supplying the Micro
 6 vessels had not yet expired when the Agreement dated
 7 March 8, 1993, was entered into; and,

8 (h) The General Manager of the private party to
 9 said Agreement has by letter informed the Director of the
 10 Department of Transportation that his company will no
 11 longer supply provisions for the Micro vessels, even
 12 though said supplies are needed for the continued
 13 operation of the Micro vessels.

14 (i) Truk Shipping Company, Inc. holds a
 15 fiduciary responsibility to the State to contract and
 16 deal with the State in good faith.

17 THEREFORE, the Legislature finds that the operation and supply
 18 of the Micro vessels should be taken out of the hands of the
 19 contracting party under said Agreement, that funds should be
 20 appropriated for the immediate future operation of the vessel,
 21 and that said Agreement is invalid and unenforceable, and
 22 should be terminated.

23 Section 2. Definition. In this Act the term "Micro
 24 vessels" shall mean the vessels M/S Micro Dawn, M/S Micro
 25 Trader, M/S Meiran, and any vessels acquired in the future by
 26 Chuuk State which are of a similar configuration and function.

27 Section 3. Violation. Expenditure of funds in violation
 28 of this Act shall be a violation of the Financial Management
 29 Act, T.S.L No. 5-44.

30 Section 4. Assignment of duties. The Department of
 31 Transportation shall, upon termination of the March 8, 1993,
 32 Agreement between the State of Chuuk and Truk Shipping
 33 Company, Inc., thirty (30) days from the effective date of
 34 this Act, administer the operation and supply of the Chuuk
 35 State Micro vessels, including purchasing, delivery, and

1 storage of supplies, advertising of schedules of service, and
2 other necessary functions; and no official of the Chuuk State
3 government shall have the authority to contract out said
4 duties and services. Provided, however, that the Department of
5 Transportation shall have the authority, subject to the
6 provisions of the Public Contracts Act, T.S.L.No. 5-83, to
7 contract out the following functions:

8 (a) Ticketing and arranging for the accommodation
9 of passengers;

10 (b) Arranging for the loading and off loading of
11 cargo, berthing, and pilotage.

12 (c) Necessary maintenance, repairs, and servicing of
13 the Micro vessels and their equipment; and,

14 (d) The issuance of bills of lading, cargo
15 manifests, passenger manifests, dock receipts, and other
16 necessary documents.


17 Section 5. Notice of Termination of existing Agreement.

18 Pursuant to paragraph (8) of the March 8, 1993, as amended,
19 and January 1, 1983, Agreements between the State of Chuuk and
20 Truk Shipping Company, Inc., respectively, thirty (30) days
21 notice of termination of these Agreements for the causes
22 stated in this Act is given to Truk Shipping Company, Inc. No
23 official or employee of the Chuuk State Government shall have
24 the authority to allow said private party to continue to
25 perform under said Agreement after thirty (30) days from the
26 effective date of this Act, at which time said Agreements
27 shall be terminated. The validity of monies owed to said
28 private party under the terms of said Agreements while said
29 Agreements were still in force are to be determined jointly by
30 the Directors of Transportation and Treasury, on behalf of the
31 State, and Truk Shipping Co. management.

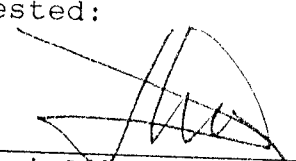
32 Section 6. Severability. If any provision of this Act,
33 or the application thereof to any person or circumstance, is
34 held invalid, this invalidity does not affect other provisions
35 or applications of the Act which can be given effect without

1 the invalid provision or application, and to this end the
2 provisions of this Act are severable.

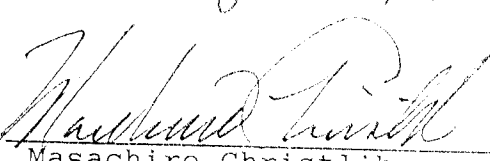
3 Section 7. Effective Date. This Act shall become
4 effective upon approval by the Governor or upon its approval
5 by without such approval.
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Signed by: 
Roger S. Mori, President
Senate
Chuuk State Legislature

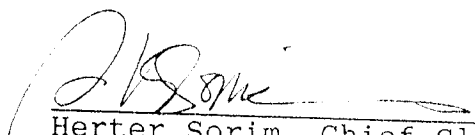
Attested:


Datasi Albert, Chief Clerk
Senate
Chuuk State Legislature

Date: August 23, 1995

Signed by: 
Masachiro Christlib
Speaker
House of Representatives
Chuuk State Legislature

Attested:


Herter Sorim, Chief Clerk
House of Representatives
Chuuk State Legislature

Date: August 23, 1995

Approved by: _____
Sasao H. Gouland, Governor
Chuuk State Government

Date: _____

History : S.B.NO. 3-23;SD1;HD1;CD1
S.S.C.R.NO. 3-06
H.S.C.R.NO.3-10
J.C.C.R.NO. 3-02