

THIRD LEGISLATURE OF THE STATE OF CHUUK

SECOND REGULAR SESSION, SECOND SPECIAL  
SESSION, DECEMBER, 1996

ACT NO: 3-36

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AN ACT

To repeal CSL No. 192-12 and establish a Chuuk Public Utility Corporation (CPUC), providing for its powers, duties, and functions, and providing for its composition, members, terms of office, and for other purposes.

BE IT ENACTED BY THE CHUUK STATE LEGISLATURE:

1           Section 1. Short Title. This Act may be cited as "The  
2 Chuuk Public Utility Corporation Act of 1996."

3           Section 2. Statement of Purpose. The purpose of this  
4 Act is to correct the deficiencies of CSL No. 192-12, "The  
5 Chuuk State Public Utilities Corporation Act of 1992." The  
6 Legislature finds that adequate provision, maintenance, and  
7 improvement of public utilities are vital to the economy,  
8 health, and environment of Chuuk State. It is also necessary  
9 that if the State is to establish a public corporation that it  
10 is imperative that the public corporation act in the best  
11 interests of the people of Chuuk State. Accordingly, this Act  
12 establishes a public corporation that shall be responsible for  
13 providing reliable utilities at reasonable cost to its  
14 customers and the public corporation shall be responsive to  
15 the needs and concerns of the people of Chuuk.

16           Section 3. Chuuk Public Utility Corporation Established.  
17 There is established a public corporation to be known as the  
18 "Chuuk Public Utility Corporation" or "CPUC", subject to the  
19 laws of the state.

20           Section 4. Powers and Duties of the CPUC. The CPUC  
21 shall:

22           (a) Operate as a provider of all public utilities  
23 within the State including, providing, maintaining and  
24 improving the water, electric, and sewerage systems.

25           (b) Operate and manage such systems in accordance  
26 with acceptable commercial practices, treating all users  
27 and customers of such utilities equally in accordance

1 with this law and established utility rates.

2 (c) Require all customers to pay for services  
3 provided.

4 (d) Prepare and institute plans for the  
5 feasibility, establishment, maintenance, and improvement  
6 of public utilities on all Chuuk State islands.

7 (e) Prepare and institute plans for maintenance and  
8 improvement of public utility facilities and services.

9 (f) Establish five year strategic financial plans  
10 to guide the CPUC, the Governor, and the Legislature in  
11 utility matters.

12 (g) Train and improve the skills of the CPUC's  
13 employees in their respective fields.

14 (h) Establish and implement a rate and fee  
15 structure for public utility customers. Such rate and  
16 fee structure shall balance the needs of the people for  
17 such utilities services with the needs of the corporation  
18 to maintain and improve its operations in an economically  
19 feasible manner. The CPUC shall provide each customer a  
20 monthly bill detailing the utility rate, services  
21 received, and amount due.

22 (i) Invest all surplus revenues of the corporation  
23 in the establishment, maintenance, and improvement of  
24 said public utilities.

25 (j) Incur indebtedness for the purposes of  
26 establishing, improving, and maintaining said public  
27 utilities.

28 (k) Adopt rules for the effective collection of  
29 utility fees and other debts owed the CPUC.

30 (l) Employ professional technicians or experts for  
31 the purpose of establishing, maintaining, and improving  
32 public utilities including, but not limited to, auditing,  
33 accounting and collection services.

1 (m) Cooperate with other entities, governmental or  
2 private, to achieve the purposes of the CPUC.

3 (n) Establish and maintain a 24-hour emergency  
4 hotline to receive emergency telephone calls from users  
5 and establish a customer service office and public  
6 telephone line to answer customer questions and  
7 complaints.

8 (o) Exercise other powers and duties as may be  
9 prescribed by law.

10 Section 5. Legal Capacity. In the performance of its  
11 duties, the CPUC may exercise all powers normally exercised by  
12 a corporation, including but not limited to, the following:

13 (a) To adopt and amend bylaws governing the conduct  
14 of its business and the exercise of its powers;

15 (b) To sue and be sued in its corporate name.

16 (c) To adopt, alter, and use a corporate seal.

17 (d) To acquire, in any lawful manner, real,  
18 personal, or mixed property, either tangible or  
19 intangible; and to exercise any and all rights incident  
20 to the ownership of such property.

21 (e) To acquire and take over in any lawful manner  
22 the business, property, assets, and liabilities of any  
23 entity, including the Government of Chuuk State, relating  
24 to the public utilities herein provided.

25 (f) To borrow or raise money by any lawful means  
26 and to issue corporate bonds on such security and upon  
27 such terms as may from time to time be deemed necessary  
28 for the establishment, improvement, and maintenance of  
29 these public utilities.

30 (g) To hire, retain and terminate the services of  
31 employees, agents, attorneys, auditors, and independent  
32 contractors upon such terms and conditions as it may deem  
33 appropriate.

1 (h) To do all such other acts which are incidental,  
2 proper, and necessary to accomplish the duties and  
3 functions of the CPUC.

4 Section 6. Board of Directors. The administration and  
5 management of the CPUC shall be controlled and its corporate  
6 powers exercised by a Board of Directors.

7 Section 7. Board of Directors; Qualifications.

8 (a) The board shall consist of the following five  
9 members, one from each of the five senatorial districts:

10 (1)(i) Two members who shall be knowledgeable  
11 of utility management; or

12 (ii) shall have at minimum a degree in  
13 business administration or a related field.

14 (2) Three members who shall have business  
15 or professional work experience.

16 (b) The Chief Executive Officer shall be an ex-  
17 officio board member without voting rights.

18 (c) No board member may be an employee of the CPUC.

19 Section 8. Board of Directors; Appointment.

20 (a) The Governor shall nominate persons for  
21 appointment to the board of the CPUC with the advice and  
22 consent of the Senate within 15 days of the effective  
23 date of this Act.

24 (b) The Governor shall nominate a replacement for  
25 appointment to a vacancy on the board with the advice and  
26 consent of the Senate within 45 days of the vacancy.

27 (c) If the Governor fails to nominate a member  
28 pursuant to subsections (a) or (b), the Speaker of the  
29 House shall nominate such member for appointment to the  
30 board with the advice and consent of the Senate.

31 Section 9. Board of Directors; Organization. Within 7  
32 days after at least three of the board members are confirmed,  
33 the board shall hold its first organizational meeting and

1 shall elect from among its members a chairman, vice chairman,  
2 and secretary/treasurer. The Chairman shall preside over all  
3 meetings of the board and in the Chairman's absence, the Vice  
4 Chairman shall preside. The bylaws of the board shall provide  
5 who may preside at board meetings in the absence of these  
6 officers. During its first organizational meeting, the first  
7 confirmed board member shall preside as chairman until a  
8 chairman is elected.

9 Section 10. Board of Directors; Terms of Office.

10 Members shall serve for a term of three years. Board members  
11 may be reappointed and shall serve until their successor has  
12 been appointed. The first appointments to the board shall  
13 serve the following terms according to their order of  
14 appointment:

15 (a) Three members for a period of three years.

16 (b) Two members for a period of two years.

17 Section 11. Board of Directors; Vacancies.

18 (a) A vacancy exists when a member:

19 1) dies;

20 2) resigns;

21 3) is removed; or

22 4) is incapacitated or disabled.

23 (b) A vacancy shall be filled in the same manner as  
24 provided in Section 8 and for the duration of the term.

25 (c) The terms "incapacitated" or "disabled" as used  
26 in subsection (a) (4) refer to the physical or mental  
27 condition of a member which renders him unfit or unable  
28 to perform the duties of his position, the same to be  
29 declared by a majority of the board.

30 Section 12. Removal of Board Members.

31 (a) A board member may be removed for the following  
32 reasons:

33

1 (1) Unexcused absence from three consecutive  
2 board meetings.

3 (2) Misconduct during the transaction of the  
4 board's business or neglect of duty.

5 (3) Being incapacitated or disabled.

6 (4) Any other good cause.

7 (b) A member may be removed pursuant to subsection  
8 (a) in the following manner:

9 (1) By a majority vote of board members upon  
10 the written request of any board member or the  
11 Governor.

12 (2) By a majority vote of board members upon  
13 a joint resolution requesting removal from the  
14 Chuuk State Legislature.

15 (3) By a written demand from the Governor,  
16 the President of the Senate and the Speaker of the  
17 House of Representatives.

18 (c) The board shall adopt rules necessary to  
19 perform its duties under this section.

20 Section 13. Regular and Special Meetings of the Board.

21 (a) Regular meetings of the board shall be held not  
22 less than once per calendar quarter and at such other  
23 times and places as shall be determined by the bylaws or  
24 by a majority of all the board members.

25 (b) A special meeting may be called by the Chairman  
26 or by petition of a majority of all members of the board  
27 pursuant to notice as shall be provided in the bylaws.

28 Section 14. Quorum of Board. Three members present in  
29 a meeting shall constitute a quorum for the transaction of  
30 business of the board.

31 Section 15. Record of Meetings. The Chief Executive  
32 Officer shall ensure that full and accurate minutes of all  
33 meetings of the board are maintained and preserved.

1           Section 16. Compensation of Board Members.

2           (a) A public sector member of the board shall  
3 receive an allowance of not more than \$15.00 per meeting  
4 day.

5           (b) A private sector member shall receive not more  
6 than \$25.00 compensation per meeting day.

7           (c) All members of the board may receive travel and  
8 per diem expenses while traveling on business of the CPUC  
9 outside or within the State, at established rates of the  
10 State Government.

11          Section 17. Chief Executive Officer of the CPUC.

12          (a) The board, by majority vote, shall select a  
13 Chief Executive Officer with the advice and consent of  
14 the Senate. Compensation, term of office, and other  
15 pertinent matters shall be set by the board.

16          (b) The Chief Executive Officer shall be  
17 responsible to the board in carrying out such duties and  
18 functions as assigned by the board and the bylaws.

19          (c) The Chief Executive Officer may be removed for  
20 good cause by the board by a 2/3 vote of all members.

21          (d) The Chief Executive Officer shall have at least  
22 the following minimum qualifications:

23                 (1) a college degree in business or public  
24 administration, engineering, or a related field.

25                 (2) three years of utility or business  
26 management experience.

27          Section 18. Comptroller. The Chief Executive Officer  
28 shall appoint, with the concurrence of the board, a  
29 comptroller, for such terms as shall be provided in the bylaws  
30 of the CPUC. The Comptroller shall discharge the duties and  
31 responsibilities relating to the financial affairs of the CPUC  
32 and shall receive and disburse all funds of the CPUC, and  
33 shall perform other duties as may be assigned by the board.

1 The Comptroller shall serve under the direct supervision of  
2 the Chief Executive Officer.

3 Section 19. Budget Preparation. The Comptroller shall  
4 prepare by September 1 of each year the CPUC fiscal year  
5 budget. In preparing the budget the Comptroller shall  
6 consider anticipated capital and operational expenditures and  
7 anticipated revenues. The CPUC shall use the same fiscal  
8 calendar as the State Government. The budget shall indicate  
9 the operational, capital, and maintenance requirements of the  
10 CPUC that shall be met with the anticipated revenues or  
11 outside financial assistance including surplus revenues.

12 Section 20. Supplemental Budget Request. The CPUC may  
13 seek and accept appropriations from the State Legislature and  
14 may receive grants or other financial assistance from sources  
15 outside of the State as are necessary to supplement revenue  
16 and to provide for the establishment, operation, maintenance,  
17 and improvement of public utilities in the State.

18 Section 21. Accounting and Records.

19 a) The board shall adopt, establish, and implement  
20 a computerized accounting system.

21 b) The board and the Chief Executive Officer shall  
22 ensure that the Comptroller prepares proper and complete  
23 books of accounts reflecting all incomes, expenditures,  
24 assets, and liabilities of the CPUC.

25 (c) The board, not later than sixty days after the  
26 close of each fiscal year, shall submit to the Governor  
27 and the Legislature a complete report showing CPUC  
28 activities during the fiscal year, the present financial  
29 status and condition of the CPUC, a financial accounting  
30 of any funds provided by the State to the CPUC, and such  
31 other matters as the board deems appropriate, or as  
32 requested by the Governor or the Legislature.

33



1 (d)(1) The board shall appoint a certified public  
2 accountant to audit the financial records of the CPUC  
3 annually and transmit a copy of the audit report to the  
4 Governor and each house of the Legislature.

5 (2) The State Auditor may audit the financial  
6 records of the CPUC. The CPUC shall cooperate fully with  
7 the State Auditor and provide all requested financial  
8 records.

9 Section 22. Debts and Obligations of the CPUC.

10 a) Unless otherwise expressly provided by law, the  
11 debts and obligations of the CPUC shall not be debts or  
12 obligations of the Chuuk State Government, nor shall the  
13 Chuuk State Government be responsible for any such debts  
14 or obligations.

15 b) Debts and obligations incurred by the Chuuk  
16 State Government pursuant to its public utilities  
17 responsibilities prior to the establishment and operation  
18 of the CPUC shall remain the debts and obligations of the  
19 Chuuk State Government.

20 c) Debts and obligations incurred by the Chuuk  
21 State Public Utilities Corporation before the effective  
22 date of this Act shall be assumed by the CPUC.

23 Section 23. Tax Liability. The CPUC exists and operates  
24 solely for the benefit of the public and shall be exempted  
25 from any State or Municipal taxes or assessments on any of its  
26 property, operations or activities. Nothing in this section  
27 shall be deemed to exempt employees and independent  
28 contractors of the CPUC from tax liability for services  
29 rendered to the CPUC. The CPUC shall be liable for employees'  
30 contributions to the National Social Security System or other  
31 employees' benefits of the National or State Government, if  
32 any, in such manner as provided by law.  
33

1           Section 24. Commencement of Operation & Transition.

2           Upon the effective date of this Act, the CPUC shall acquire  
3           control over the facilities, equipment, and related property  
4           of the Chuuk State Public Utilities Corporation and commence  
5           the provision of public utilities services in the State. The  
6           Chuuk State Public Utilities Corporation shall complete the  
7           transfer of control of such matters within 7 days of the  
8           effective date of this Act.

9           Section 25. Employees; Board Members; CEO; Transition.

10           a) All employees of the Chuuk State Public  
11           Utilities Corporation and the Chief Executive Officer shall be  
12           transferred to and become employees of the CPUC on the  
13           effective date of this Act with their positions and pay  
14           levels. The CPUC may change an employee's position and pay  
15           level on the effective date of this Act, provided there is a  
16           personnel merit system in place adopted by a majority vote of  
17           the board. The board may, by a majority vote of its members,  
18           adopt the State Personnel Merit System as its own, or  
19           establish its own different from the State Merit System. All  
20           employees of the CPUC shall continue to receive the same  
21           benefits enjoyed as employees of the State, subject to change  
22           in accordance with the CPUC merit system.

23           b) The Chuuk State Public Utilities Corporation  
24           board members shall serve as board members of the CPUC until  
25           the Senate has confirmed at least three CPUC board members.

26           Section 26. Utility Rates.

27           a) The board shall establish utility rates provided  
28           that the proposed initial rate and any subsequent rate  
29           change shall take effect only after a public hearing.  
30           Notice of such public hearing shall be published in any  
31           newspaper of general circulation, and on local radio  
32           station, and posted at public places at least 10 days  
33           before such hearing.

1           b) In considering any proposed initial utility rate  
2 or change in any proposed utility rate the board shall  
3 consider the following:

4                   1) The overall economic condition of the  
5 State.

6                   2) The financial condition of the CPUC's  
7 current operation under the current rate.

8                   3) How the new rate would improve the  
9 operation and economic efficiency of the CPUC.

10                   4) The ability of consumers to pay for the  
11 proposed increased in utility rates.

12                   5) Any other related factors.

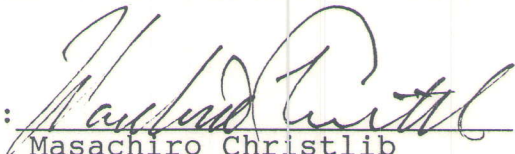
13           c) Each new rate shall be published in any  
14 newspaper of general circulation, on a local radio  
15 station, and posted at public places.


16           d) Each new rate shall take effect not less than 30  
17 days after publication.

18           e) Rates for private schools shall not be greater  
19 than residential rates or the rates for public schools,  
20 whichever rate is lower.

21           Section 27. Repeal. CSL NO. 192-12 relative to the  
22 establishment of the Chuuk State Public Utilities Corporation  
23 is hereby repealed.

24           Section 28. Effective Date. This Act shall take effect  
25 upon its passage.

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

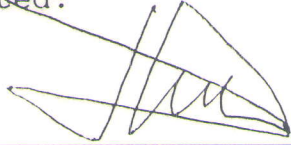
Attested:  
  
Herter Sorim, Chief Clerk  
House of Representatives  
Chuuk State Legislature

Date: 1/20/97

Signed by: 

Roger S. Mori, President  
Senate  
Chuuk State Legislature

Attested:



Datasi Albert, Chief Clerk  
Senate  
Chuuk State Legislature

Date: 01-20-97

Approved by: \_\_\_\_\_

Marcellino D. Umwech, Governor  
Chuuk State Government

Date: \_\_\_\_\_

History : H.B.NO: 3-10;HD1;SD2;CD1  
S.J.C.C.R.NO: 3-2R-2S-01  
H.J.C.C.R.NO: 2-2-01