

AN ACT

Enacting Title 2 to the TDC, creating the Truk Public Employment System and for other purposes.

Be it enacted by the Legislature of the State of Truk that:

Section 1. Enactment. Title 2 is enacted and added to the TDC to read as follows:

"Title 2 Truk Public Employment System

Chapters:

- 1. General Provisions
- 2. Personnel Administration
- 3. Employee Rights and Benefits
- 4. Discipline and Appeal
- 5. Reorganization

Chapter 1. General Provisions:

Sections:

- 100. Definitions
- 101. Establishment
- 102. Authority
- 103. Prohibition on Political Appointment
- 104. Standards
- 105. Employee Representation
- 106. Prohibition on Political Activities
- 107. Improper Influence
- 108. Penalties

§ 100. Definitions. For the purpose of this Title, the following definition shall be used:

- (1) "agency" means each authority of the Government of the State of Truk, or its political subdivisions whether or not it is within or subject to review by another agency;
- (2) "authority" means any independent or quasi-independent body which is created by law to exercise powers which are subject to administrative or executive review;

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- (3) "benefit" means any privilege, advantage, compensation in money, kind or service and any act which confers prosperity or happiness or contributes towards health and welfare;
 - (4) "board" means any official or representative body organized to perform a trust or to control and discharge functions of a magisterial, representative or judiciary character of the governmental body which it represents;
 - (5) "commission" means any board or committee officially appointed or empowered by law to perform certain acts or exercise certain jurisdiction of a public nature;
 - (6) "employee" means any person who is appointed or hired on a permanent or temporary basis to perform some function for the government of Truk State or its agencies, authorities, boards, commissions or political subdivisions;
 - (7) "officer" means any person who is appointed to his position by the Governor;
 - (8) "public employment" means any office, position, post or work created or authorized for the proper function of the Government of Truk State or its agencies, authorities, boards, commissions excluding elected positions and the judges of the Charter State Courts or political subdivisions of the State Government.

§101. Establishment of System. All public employment shall be subject to the provisions of this Title. There shall be no distinction, preference, discrimination or other action taken in the treatment of employees based on sex, marital status, race, religious belief, family or clan relationship, or political beliefs or affiliation. All persons shall be treated equally in obtaining public employment, the sole criterion to be used shall be the qualification of the person for the office, position, post or work

without regard to sex, marital status, race, religious belief, family or clan relationship, or political beliefs or affiliation. No preexistent condition such as a loyalty oath, membership in a labor group, or waiver of any civil rights shall be imposed for public employment.

§ 102. Authority. Each executive agency, and all branches, departments, instrumentalities, including all agencies, authorities, boards, and commissions or political subdivisions of the Truk State Government may employ such employees as necessary to perform their function as prescribed by law; provided, no public employment is authorized beyond the monetary limitation placed upon the governmental body by law. Should any person be appointed or be hired for any office, position, post or work for which no money is available or has been appropriated by law, then he shall not receive any compensation, nor receive any benefits under this Title.

§ 103. Prohibition of Appointments. It shall be unlawful to make any appointment or hiring in public employment based on political or family or clan consideration.

§ 104. Standards. All employees shall be hired, retained, promoted, disciplined and terminated on the basis of merit and fitness. Standards for each office, position, post or work shall be established by law or by administrative regulation.

§ 105. Employee Representation. All employees, individually or collectively, shall have the right of presenting their views on any matter affecting pay, status and working conditions. There shall be no compulsory membership in any collective body representing employees.

§ 106. Prohibition on Political Activities. No employees shall be urged to work, or be requested to participate in or contribute to any political activity by his supervisor or fellow workers. No employee shall use or allow to be used his working time or any government owned property for any political activity unless expressly authorized by law.

§ 107. Improper Influence. It shall be unlawful for any person to attempt to influence or influence any appointment or hiring to public employment other than that based on the merit and fitness of the prospective employee. Further, it shall be unlawful for any attempt to influence or influence to be unreported in the personnel file of the prospective employee.

§ 108. Penalties. Anyone convicted of violating Sections 103, 106 or 107 of this Chapter, or Section 309 of Chapter 3 of this Title upon conviction shall be punished by imprisonment in jail for not more than 3 years or a fine not more than \$5,000, or both.

Chapter 2. Personnel Administration.

Sections

200. Administration

201. Employees Files

§ 200. Administration. This Title shall be administered by a department designated and organized by Governor. This department shall have all necessary power to carry out the purposes of this Title and to make all necessary rules and regulations for that purpose.

§ 201. Employees Files. All prospective employees and employees shall have a permanent personnel file which shall contain all applications for employment, all action taken on applications and the reasons therefor, all evaluations of performance, the compensation level of that employee, a current job description, and all other information relevant to his public employment. This file shall be always available to the employee and any member of the public upon request.

Chapter 3. Employee Rights and Benefits

Sections

300. Classification

301. Compensation

302. Job Description

303. Adjustment to Compensation

304. Job Retention

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- 305. Leave
 - 306. Insurance
 - 307. Retirement
 - 308. Job Related Injuries
 - 309. Prohibition on Personnel Use
 - 310. Penalty
 - 311. Employees Grievances Procedure

§ 300. Classification. All public employment shall be classified into the following categories:

- (1) appointed officers;
- (2) contract workers;
- (3) permanent position;
- (4) temporary position; and
- (5) emergency position.

§ 301. Compensation. Unless otherwise provided by law all compensation shall be fixed by compensation guidelines for each office, position, post or work in public employment. These guidelines shall set forth the minimum and maximum levels of pay for each public employment. These guidelines shall be reevaluated and adjusted according to need but not less than every three years.

§ 302. Job Description. Each employee shall be furnished a copy of his job description before commencement of his public employment. This job description shall clearly set forth the power and duties of the employee and his starting compensation.

§ 303. Adjustments to Compensation. Regulations shall be prescribed for the following adjustments to compensation:

- (1) merit increase within the guidelines which reflect special achievement or performance as documented by the employee's supervisor;
- (2) overtime, night work and holiday pay, and disciplinary action according to the regulations established; and

(3) necessary reduction due to budgetary limitations.

§ 304. Job Retention. Every employee shall be entitled to retain his job during continued satisfactory performance and upon his fitness to perform all his duties. Regulations shall be established governing all job retention rights; provided, however, that no employee shall be given preference solely based upon his seniority or his classification.

§ 305. Leave. Regulations governing annual, sick and administrative leave benefits shall be established.

§ 306. Insurance. The Governor or his representative is authorized to negotiate with insurance firms for insurance protection as is needed.

§ 307. Retirement. The Governor or his representative may prepare for the Legislature's approval a retirement program for employees as is needed.

§ 308. Job Related Injuries. Treatment for job related injuries shall be responsibility of the Government. All necessary medical treatment and compensation not to exceed ten percent of the employee's compensation for five years shall be paid out of the General Fund. Insurance companies may be contracted by the Governor to administer all claims.

§ 309. Prohibition on Personnel Use. It shall be unlawful for any employee to use his working time, or use or allow to be used any government property for any purpose which is not related to the public welfare as related to his position, office, post, or work.

§ 310. Penalty. Upon conviction of a violation of any Section 309 the punishment shall be by imprisonment of not more than six months or by a fine of not more than \$1,000 or by both.

§ 311. Employee Grievance Procedure. Every employee shall have the right to make a grievance concerning any condition of his employment. No disciplinary action may be taken against an employee for exercising his right to make a grievance. Regulations shall be prescribed for a fair grievance hearing procedure.

Chapter 4. Discipline and Appeal.

Sections:

- 400. Disciplinary Action
- 401. Power to Discipline
- 402. Duty to Report
- 403. Penalty for Failure to Report
- 404. Appeal
- 405. Disciplinary Hearing

§ 400. Disciplinary Action. Disciplinary action shall consist of warning, suspension, demotion and termination. Other forms of disciplinary action may be created by regulation.

§ 401. Power to Discipline. The power to discipline employees rests with the Governor, department heads or other authorized supervisor. Regulations shall determine the procedure by which disciplinary action shall be imposed.

§ 402. Duty to Report. It shall be the duty of every employee to report all violations of law or regulation which come to his attention. It shall be unlawful for any employee to fail to report all violations of law or regulations. Provided, however, nothing in this Section shall impose a duty to report where a legally recognized confidential or privileged relationship exists.

§ 403. Penalty for Failure to Report. Disciplinary action shall be imposed for every failure to report. Upon recommendation of the Governor, department head or other authorized supervisors, criminal proceedings may be instituted for failure to report. Upon conviction of violation of Section 402, the punishment shall be by imprisonment in jail of not more than 90 days, or by a fine of \$600 or by both.

§ 404. Appeal. Every employee shall have the right to appeal any disciplinary action as specified in Section 405 in this law. The procedure of appeal shall be established by law or regulation.

§ 405. Disciplinary Hearing. All employees shall have the right to an administrative hearing in a case where disciplinary action of demotion, termination or suspension without pay for more than 10 days is imposed. A three member board shall be selected as follows: one member selected by the Director of the Department, one selected by the employee, the third selected by the two. This board shall hear the matter and make recommendation to the Governor for final decision. The decision of the Governor shall not abridge an employee's right to appeal to a court of a competent jurisdiction.

Chapter 5. Reorganization.

Sections:

500. Reorganization Plans

501. Rights


502. Continuation

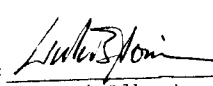
§ 500. Reorganization Plans. When the Governor, Legislature or Chief Justice of the Charter State Court, after investigation finds that reorganization is necessary and submits a plan for reorganization, all employees affected by such organization shall be notified in writing no less than 30 days before submission of plan to the Legislature.

§ 501. Rights. All employees shall have the right to express their views on any reorganization plans. No employee shall be threatened, coerced, or influenced to exercise his right of presenting his views.

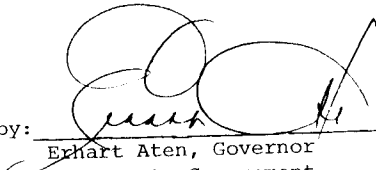
§ 502. Continuation. All laws and regulations shall continue in full force during and upon reorganization as were in effect prior to such reorganization unless otherwise expressly provided by law."

Section 2. Effective Date. This act shall take effect upon approval by the Governor or upon its becoming law without such approval.

Signed by: 
Tadashi C. Wainit, Speaker
Legislature of the State of Truk

Attested to: 
for Datasi Albert
Legislative Clerk/Secretary
Legislature of the State of Truk

Date: April 15, 1979

Approved by: 
Exhart Aten, Governor
Truk State Government

Date: April 26, 1979