
AN ACT

To create a Truk Maritime Authority to promote, develop and support commercial utilization of living marine resources as authorized by Public Law No. 7-111, and for other purposes.

Be it enacted by the Legislature of Truk State.

Section 1. Short Title. This Act shall be known and may be cited as the Truk Maritime Authority Act of 1981.

Section 2. Purpose. The purpose of this Act is to create a legal entity to promote, develop, and support commercial utilization of living marine resources within the State of Truk pursuant to the provisions of Public Law No. 7-111.

Section 3. Truk Maritime Authority. There is hereby created an Authority of the State Government to be designated and known as the Truk Maritime Authority, hereinafter referred to as 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.

Section 4. Powers and Duties of the Authority. The Authority, in addition to the powers and duties elsewhere conferred and imposed, shall have the following duties and powers:

(1) The Authority shall provide guidance to the State Government in establishing policies in coordination with the Micronesia Maritime Authority.

(2) The Authority shall have the power to adopt and enforce rules and regulations concerning its operations and the exploitation of living marine resources as permitted by law.

(3) The Authority shall serve as a conduit for public funds to establish and operate facilities required for commercial fisheries development, to conduct pilot fishing operations and to participate in large scale commercial fishing, including joint ventures, and related activities which are not suitable for investment by the private sector.

(4) The Authority shall formulate a comprehensive five-year marine resources development plan.

(5) The Authority shall establish and support programs to promote, support and guide fishing cooperative associations.

(6) The Authority shall help finance and support the development of locally owned private enterprises and may make loans to accomplish the same.

(7) The Authority may purchase and accept marketable marine resources and store, process, transport and market such marine resources to out-of-State buyers but the Authority may not market such marine resources in the State of Truk.

(8) The Authority may generally carry on the business of establishing, developing, maintaining, operating and managing facilities for the commercial utilization of marine resources with all powers incident thereto.

(9) The Authority may act as an agent for the sale of supplies and provisions, including fuel, oil, water and food to foreign fishing vessels lawfully permitted to enter a port within the State.

(10) The Authority may purchase, lease, and sell real or personal property, supplies, goods, materials, and commodities and 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 insurance companies as it deems advisable.

(11) The Authority, in operating facilities and properties owned, leased or controlled by it, may enter into contracts, leases, and other arrangement with any persons for terms not exceeding 15 years, or granting the privilege of using or improving such facilities and properties or a portion thereof or space therein for any utilization of marine resources connected purposes, may confer the privilege of supplying goods, commodities, things, or facilities at such facilities or properties or of making available services to be furnished by the Authority or its agents at such facilities or properties. It shall determine the charges or rentals for the use of any facility or property

under its management and control, and the terms and conditions under which the facility or property may be used. Charges shall be reasonable and uniform for the same class of service, and established with due regard to the value of the facilities or property and improvements used and the expense of the operation of the Authority. The Authority shall have and may enforce liens to enforce the payment of any such charges through appropriate judicial proceedings. The right to levy charges or rentals for the use of the facility or property under its management shall be exclusively that of the Authority and all such charges and rentals as well as other revenue of the Authority shall be and remain revenues of the Authority to be applied as herein set forth.

(12) 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 judgement, are useful, desirable or convenient in efficiently operating and maintaining facilities and properties. The Authority may also enter into agreements with the Government of the Trust Territory, the Federated States of Micronesia and the State Government, their departments and agencies, for the rendering of services performed by such departments and agencies to the Authority.

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

(14) 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 the licensing and taxation now or hereafter required or imposed by the State, or any political subdivision or taxing authority of the State, or of future entities created to take the place of the above. However, such exemption shall not apply to persons entering into independent contracts with the Authority.

(15) The Authority is authorized to apply for, accept, expend and repay the Government of the United States, Trust Territory, Federated States of Micronesia, or State for all monies made available by grant, loan, or both, to plan or accomplish in whole or in part, any of the purposes of this Act. Unless otherwise prescribed by the agency from which such monies are received, the chief financial officer of the Authority shall deposit all monies received pursuant to this subsection in separate denominated accounts.

(16) 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 Act. Upon the request of the Manager, employees of the Government of the State may be assigned by the Governor to assist the Authority to carry out activities of the Authority as set forth herein. Expenses thereof, if any, shall be reimbursed by the Authority as may be required by the Governor in the assignment.

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

(18) The Authority may employ agents and employees, and contract for the services of qualified managers, specialists or experts, as individuals or as organizations, to advise and assist the Authority and its employees. The Authority may set its own compensation, wage and salary scales.

(19) The Authority may issue general or special revenue bonds pursuant to this Act for purposes it deems necessary.

(20) The Authority is authorized to act in behalf of the State of Truk in approving all agreements concerning marine resources negotiated by the Micronesian Maritime Authority.

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

Section 5. Composition of the Board. All powers vested the Authority shall be exercised by the Board, which shall consist of seven members called Directors. The Governor shall appoint three members: one member of the Chamber of Commerce; one person actively involved with a fishing cooperative; and one person actively involved in a fishing enterprise other than a fishing cooperative. The Speaker shall appoint two members: one from the Ways & Means Committee of the Legislature and one from the Resources and Development Committee of the Legislature. The other members of the Board shall be the Chief Fisheries Officer of the State, and the State representative on the Micronesian Maritime Authority. All appointments by the Governor shall have the advice and consent of the Legislature. Persons appointed shall hold membership on the Board for a period of two years, subject to reappointment, and until their successors have been appointed and qualify. The Board may remove a member from the Board for cause including, but not limited to, malfeasance or incapacity.

Section 6. Meetings of the Board. Within 15 days after the Legislature confirms the Governor's appointments to the initial Board, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall meet at least every three months and shall hold public meetings as it may deem necessary for the transaction of its general business. A vacancy occurring in an office of Director which requires appointment by the Governor, or the Speaker shall be filled in the same manner as the original appointments for the unexpired term of the Directors whose vacancy is being filled.

Section 7. Organization of the Board. The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall designate a Secretary who may not be a member of the Board itself to keep the minutes and records of the Board. Any five members of the Board shall constitute quorum, and a concurrence of five members shall be necessary for any official action taken by the Board unless otherwise provided herein. The Directors of the Authority shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Board.

Section 8. Appointment of Manager's duties. The Board shall appoint a Manager who shall be its chief executive officer, and who shall serve at its pleasure, and the Board shall fix his compensation.

Section 9. Powers and Duties of Manager.

(1) The Manager shall ensure that all rules and regulations of the Authority are enforced.

(2) The Manager shall attend all meetings of the Board and submit a general report on the affairs of the Authority.

(3) The Manager shall keep the Board advised on the needs of the Authority.

(4) The Manager shall approve demands for payment of obligations within the purposes and amounts authorized by the Board.

(5) The Manager shall prepare or cause to be prepared all plans and specifications for the construction and repair of works, vessels and facilities operated by the Authority.

(6) The Manager shall devote his entire time to the business of the Authority, to select and appoint the employees of the Authority except as otherwise provided in this act; to plan, organize, coordinate and control the services of such employees in the exercise of powers of the Authority under the general direction of the Board; and, in lieu of hiring employees of the Authority, to perform any of the tasks, works or other services required by the Authority to contract with independent contractors, as person, organization, or corporations, to provide such services.

(7) The Manager shall cause to be published within 60 days after the end of each fiscal year a 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, which publication shall be made in the manner provided by the Board.

(8) The Manager shall perform such other and additional duties as the Board may require.

(9) The Manager shall be an ex-officio non-voting member of the Board.

Section 10. Appointment of Treasurer and Attorney; Duties of each.

The Board may also appoint a Treasurer and an Attorney, both of whom shall serve at the pleasure of the Board and whose duties and compensations shall be fixed by the Board. The Board may appoint one or more assistants to any such Office:

(1) 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 Act. 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.

(2) The Attorney shall advise the Board and the Manager in all legal matters to which the Authority is a party or in which the Authority is legally interested.

(3) Any of the above officers may be appointed governmental officials. The Authority may use the services of the Attorneys for the State to serve as attorneys for the Authority, or it may appoint such attorney or attorneys as it may deem necessary and provide for payment of legal services rendered. All official documents, contracts, bonds, and other instruments in writing shall be approved as to form and legality by the Attorneys for the Authority. Such approval may be conclusively evidenced by the signature thereon of one of said attorneys.

Section 11. Authority Exempt From Taxation. As an instrumentality of the State Government the Authority and all property acquired by or for it or used by it, and all revenues and income therefrom, are exempt from taxation and business regulations by the State or by any political subdivision or public corporation thereof.

Section 12. Contract Letting by the Board. The purchase of all supplies and materials, and the construction of all works when the expenditures exceeds \$2,500 shall be by contract awarded by the Board. The Board shall endeavor to award all contracts to the lowest responsible bidder. If the Board does not award any contract to the lowest bidder, its reasons must be stated in writing and delivered to all bidders. Notice requesting bids shall be published at least 10 days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(1) If, after rejecting bids for materials and supplies, the Board determines that, in its opinion, the materials and supplies 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, shall utilize the services of State purchasing agencies wherever practical.

(2) The provisions of this Section shall not apply to the procurement of professional, advisory, or technical services.

(3) 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 5 percent of the entire capital stock. The Board shall establish procedures for the timely verification of this restriction by its attorney.

Section 13. Accounting and Reporting; Establishment of Fund. The Board shall adopt and maintain a system of accounting principles.

(1) The Board may employ a firm of independent 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. Copies of any such reports shall be furnished to the Governor and the Legislature.

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

(3) There is hereby established a fund that shall be known as the "Truk Maritime Authority Fund" which shall be maintained separate and apart from other funds of the State or any successor entity thereto, by the Authority, and independent records and accounts shall be maintained in connection therewith.

(4) All monies received by the Authority from whatever source derived shall be deposited in said fund, or in such funds as may be established pursuant to this Act in eligible banks as defined in this Act.

(5) All expenditures, except as otherwise provided by law, shall be made from said Truk Maritime Authority Fund.

Section 14. Employee Rights. The Board shall establish rules and regulations governing the selection, promotion, performance, evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Authority.

Section 15. 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.

(1) 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 insurance carriers, or to their designated agents for processing and except that no policy shall place a time limit on filing claims of less than six months.

(2) In the event of any dispute, the Attorney for the Authority shall represent the interest of the Authority.

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

Section 16. Penalties. Any person who violates any provision of this Act, or any valid rule or regulations promulgated under this Act, concerning the operation of the Authority, is punishable by a fine not to exceed \$1,000 or by imprisonment not to exceed three months, or both, upon conviction by a court of competent jurisdiction of the person or persons charged.

Section 17. Effective Date of Rules and Regulations. Fifteen days after the publication of the notice hereby required, the advertised Rules and Regulations shall be in full force and effect, and ignorance thereof shall not constitute a defense for the prosecution for the enforcement of a penalty, and the rules and regulations authorized hereby, after publication, shall be judicially recognized by the court as valid civil ordinance of the State.

Section 18. Right to Challenge Rules or Regulations adopted by Authority. Any person substantially interested or affected in his rights as to person or property by a rule or regulation adopted by the Authority may petition the Authority for a reconsideration of such rule or regulation, or for an amendment, modification, or waiver thereof. Such petition shall set forth a clear statement of the facts and grounds upon which reconsideration, amendment, modification, or waiver is sought. The Authority shall grant the petitioner a public hearing within 30 days after filing of said petition and the Authority's decision upon the petitioner shall be publicly released not more than 20 days after the final public hearing held upon the petition.

Section 19. Publication of Rules and Regulations. In addition to the notice of adoption of rules and regulations relative to civil penalties, a substantive statement shall be published, in condensed form, along with said notice, so as to afford an intelligent direction of the mind to the act forbidden by the civil rules or regulations; one notice may embrace any number of rules and regulations; said notice must advise that breach of the particular rules and regulations will subject the violator to a civil penalty as set by the Board in the Rules and Regulations. Such notice must also state that the full text of the Rules and Regulations are on file at the principal office of the Authority, where the same may be ready by any interested person during reasonable business hours.

Section 20. Limitation on Financial Interest by Members. No Director, officer, or employee of the Authority, either for himself or as agent for anyone else, may use his position for his own benefit or for the benefit of his principal to the detriment of the Authority, or use undue influence on the Board for his own benefit or for the benefit of his principal in any sale, purchase, contract, or transaction entered into by the Authority except as otherwise provided in this Act. Any Director, officer, or employee of the Authority, either for himself or as agent for anyone else, who uses his position for his own benefit or for the benefit of his principal to the detriment of the Authority, or who uses undue influence on the Board for his own benefit or for the benefit of his principal in any sale, purchase, contract, or transaction entered into by the Authority shall be guilty of misdemeanor.

Immediately upon conviction of a violation thereof, that person shall forfeit his office or position. Upon the filing of a complaint of such misdemeanor, the Board, in its judgement, may suspend the services of the charged person pending final determination thereof. Upon conviction thereof, he shall be fined by fine not to exceed \$2,000 or imprisonment not to exceed one year, or both.

Section 21. Authority Exempt from Execution and Bond Requirements.
No execution shall be issued or levied by virtue of any judgement that may be recovered against the Authority, but the Board may provide for the payment of judgements from future revenues of the Authority after recovery of any judgement or by the payment out of any funds on hand and uncommitted. Land, improvements, monies, or debts due the Authority, personal and real property, and 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, 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 costs, 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 bonding or be recognized by the Board.

Section 22. State Government 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 Act and of the projects contemplated herein, and the subsequent operation of the Authority, the State or any agency of the State may, if the Governor determines that such projects will benefit and further the public purposes of the State shall:

(1) dedicate, sell, convey, or lease any of its interest in any real or personal properties, rights, or privileges that it may have, to the Authority;

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

(3) do any and all things necessary to aid or cooperate in planning or carrying out of the duties, powers and obligations of the Authority;

(4) lend or advance, grant or contribute funds to the Authority, and provide for or waive the repayments of any such funds loaned or advanced;

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

(6) enter into any agreements which may extend over any period of time.

Section 23. Authority has Powers to Borrow. The Authority may issue bonds subject to the approval of the Governor, and may hold or sell any securities or obligations upon such terms as it may fix, and may borrow on the Security of any real or personal property owned by it, or on the security of some or all revenues to be derived therefrom, and may use the proceeds of such loans for the purposes of this Act. All bonds issued hereunder and their transfer and the income therefrom, including deposits made on the sale thereof, shall, at all times, be free from taxation by the State or any of its political subdivisions.

Section 24. Bonds of Authority are Declared Authorized Investment. All bonds issued under this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees and guardians, and for any sinking funds of all political corporations, agencies, and other subdivisions of the State. Such bonds shall be eligible to secure the deposit of any and all public funds of the State Political Corporations, agencies, and other subdivision of the State, and such bonds shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons appertenant thereof.

Section 25. Designation of Depository for Authority. The Board shall designate one or more banks to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks.

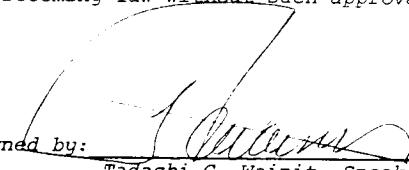
Section 26. Authority may invest surplus funds. Money in any funds of the Authority or any fund established by the Board in connection with the authorization of its bonds, including, but not limited to, proceeds from the sale of bonds, which is not needed to satisfy its denominated purpose for any period of time, may be invested or reinvested from time to time in direct obligation of, or in obligations, the principal and interest of which are guaranteed by the Trust Territory, United States of America, the Federated States of Micronesia, or invested in direct obligations of or in participation certificates guaranteed by the United States Federal Intermediate Credit Banks, Federal National Mortgage Association, Federal Home Loan Banks, banks for cooperatives, and the certificates of deposit of any bank or trust company, the deposit of which are fully secured by a pledge of any of the kind hereinabove specified. The type and maturity of investments made hereunder shall be determined by the Board which, in the case of funds established in connection with the authorization of bonds, shall provide appropriate recitals with regard thereto in the resolutions relating to the issuance of such bonds. Income and profits on such investments shall be applied in any such resolution, and at such provision, shall be applied to the uses hereinabove specified for bond proceeds.


Section 27. Severability. If any provision of this Act or any rule, regulation, or order promulgated hereunder, or the application of any such provision, rule, regulation, or order to any person or circumstances is held invalid, the remainder of this Act, or any rules, regulations, or orders 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.

Section 28. Succession. Upon the organization of the Board of the Authority, the Truk State Fishing Authority created pursuant to the provisions of 45 TTC151 to 161 shall be succeeded by the Authority and all assets, liabilities, and activities of the Truk State Fishing Authority shall be transferred

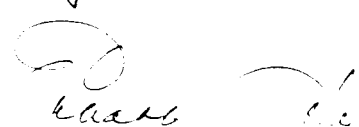
to the Truk Maritime Authority. Manager of the Truk Fishing Authority shall act as the Manager of the Authority until the appointment of the Manager by the Board of the Authority.

Section 29. 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
Truk Legislature

Attested to: 
Datasi Albert
Legislative Chief Clerk/Secretary
Truk Legislature

Date: May 11, 1981

Approved by: 
Erhart Aten, Governor
Truk State Government

Date: May 11, 1981