

SECOND LEGISLATURE OF THE STATE OF TRUK

SECOND REGULAR SESSION, MAY SECOND 1983

ACT NO. 2-69

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AN ACT

To establish a Witto Resources and Development Authority for the Namurwitto Islands, to provide for its organization, management, authority, and responsibilities, and for other purposes.

Be it enacted by the Legislature of Truk State.

Section 1. Establishment. The Witto Resources and Development Authority is hereby established as a public corporation under the laws for the State of Truk and the Federated States of Micronesia. The Principal Office of the Authority shall be at a location determined by the Board.

Section 2. Area of Service. The Authority shall serve the following municipalities within the State of Truk:

- (1) Ulul;
- (2) Magur;
- (3) Ono;
- (4) Onary; and
- (5) Pesarach.

Section 3. Purpose of Authority. The Authority shall identify the development needs of its area of service and shall promote, by its own activity and that of others, economic development in coordination and cooperation with state and national governments, and private and cooperative enterprises.

Section 4. Board of Directors.

(1) Establishment. There shall be a Board of Directors of the Witto Resources and Development Authority which shall have general management and control over the authority;

(2) Composition. The Board shall be composed of seven members, five of whom shall be appointed by magistrates of each of the municipalities named in Section 2, each representing his respective municipality, with the advice and consent of their respective municipal councils, the state senator and the national senator;

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(3) Terms of Office. Terms of office of municipal representatives shall be for a period of three years, except that the initial terms of office and filling of vacancies shall be as provided in this act. The term of office shall commence on the day of the first meeting of the Board;

(4) Organizational Meeting. Not later than sixty days after the effective date of this act, the Board shall meet to select its officers and conduct such other business as it shall deem advisable. At the first meeting, the members representing the municipalities shall determine by lot the length of their initial terms as follows:

- (a) two for one year;
- (b) two for two years; and
- (c) one for three years.

The first meeting of the Board shall be called by the state senator representing the area, or in his absence, the national senator representing the area, who shall preside at such meeting until the officers named in Subsection (7) of this Section have been elected;

(5) Vacancies. Each vacancy on the Board shall be filled for the unexpired portion of term in the same manner as originally filled. Upon a determination that a vacancy exists, the Chairman, or, in his absence, the Vice-Chairman shall issue a notice of vacancy to all members of the Board and to the municipality responsible for filling the vacancy;

(6) Removal.

(a) Members of the Board may be removed from the Board, for failure to attend three consecutive meetings of the Board, or for incompetence, neglect of duty, or malfeasance in office.

(b) Removal of a member shall be by a three-fourths

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majority vote of all other members of the Board. Notification of intent to call for removal pursuant to this section shall be made at least thirty days in advance, by means which shall be described in the by-laws of the Authority, and shall include a summary of the basis of the charge against the member and identification of the witnesses to be called and evidence to be used.

(c) The State Court of the State of Truk shall have jurisdiction to hear claims of wrongful removal.

(7) Officers. The Board shall elect from among its members a Chairman, Vice-Chairman, and Secretary-Treasurer. The Chairman shall ordinarily preside at Board meetings. In his absence the Vice-Chairman shall preside. In the absence of both, the Secretary-Treasurer shall preside. The by-laws shall designate the presiding officer in the absence of these officers;

(8) Regular Meeting. Regular meetings shall be held not less than once per calendar quarter, at such time and place as shall from time to time be determined by the Chairman upon notice as shall be provided by the by-laws;

(9) Special Meetings. Special meetings shall be called by the Chairman on his own initiative, or by petition by one-third of the members, pursuant to notice as shall be provided in the by-laws;

(10) Quorum. A quorum of all regular and special meetings and business of the Board shall be four (4) members;

(11) Executive Committee. The Board may, pursuant to its by-laws, establish an Executive Committee, determine the membership thereof, and assign its responsibilities; and

(12) Record of Meetings. All meetings of the Board and the Executive Committee shall be public except when confidential matters relating to personnel are discussed. The Secretary-Treasurer or in his absence another member designated by the by-laws shall keep full and accurate minutes of all meetings which, except for confidential matters relating to personnel, shall be available for public inspection

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at reasonable times and places, as provided by laws.

Section 5. Powers of the Authority. The Authority, through its Board of Directors, shall have the following powers, obligations and duties:

(1) to identify the needs for the economic, educational and social development of the area served by the Authority, taking into account the cultural and social traditions of the area;

(2) to formulate plans and goals for the development of the resources of the area;

(3) to seek from all appropriate sources funds for the implementation of such plans;

(4) to administer programs and projects in furtherance of such developmental goals, either through its employees or by contract, or such other means as the Board deems advisable;

(5) to employ an Executive Director and a Budget and Finance Officer, and to set the terms of employment and to employ such administrative staff and other employees as may be required by law or deemed by the Board to be needed in furtherance of the goals of the Authority;

(6) to acquire in any lawful manner any property, real, personal, or mixed, tangible or intangible, or any interest therein; to hold maintain and use the same; and to sell; lease or otherwise dispose of the same at such time, in such manner, and to the extent deemed necessary to the Board to carry out its purposes;

(7) to establish, maintain, operate, and engage in, upon its own account, any appropriate enterprise, undertaking, or activities in furtherance of the purposes of the Authority; and to receive payment therefor, such payments to go into the general revenues of the Authority;

(8) to enter into and perform such contracts or other

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agreements or transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate;

(9) to borrow money from time to time; provided however that the debts of the Authority shall not be debts of the State of Truk or any of its political subdivisions; the assets of the State Government or its political subdivisions shall not be used as security for the debts of the Authority, unless otherwise provided by law;

(10) to levy and collect charges, fees, and other payments for goods sold and services rendered by the Authority, except that no such levy shall be in the form of a tax or assessment levied against the general public, the users of public facilities, or property benefited by the actions of the Authority, unless specifically authorized by law;

(11) to execute, in accordance with its by-laws, all instruments necessary or appropriate in the exercise of its powers;

(12) to take such other actions and assume such other responsibilities as may be necessary or appropriate to carry out the duties conferred upon it by law; and

(13) to approve by-laws, policies, and procedures, for the guidance and operation of the Authority.

#### Section 6. Suits and Legal Representation.

(1) The Authority may sue and be sued in its own name; provided that any liability incurred by the Authority, when not acting as an agent of the State or other governmental entity, shall not be a liability of the State or other governmental entity; and

(2) The State Attorney General of Truk shall represent and assist the Authority in legal matters, except in cases of conflict of interest.

#### Section 7. Management.

(1) The Authority, through the Board, may receive, manage, invest, and disburse funds or other property which may be appropriated, granted, or in any other manner received

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from any source for the purposes of the Authority. The Authority may use governmental accounting procedures, or, if appropriate, such financial or accounting systems as may be prescribed by law for commercial companies; and

(2) The Authority may purchase supplies, equipment and materials through its own purchasing procedures or governmental purchasing procedures as it may deem appropriate.

Section 8. Annual Budget. The Board shall prepare and submit a budget for the Authority for each fiscal year, in the manner provided by law for the preparation and submission of budgets of departments and offices in the State Government of Truk. Over obligation and over expenditures of funds are prohibited, and shall be punishable in the same manner as provided for the State Government of Truk.

Section 9. Executive Director. There shall be an Executive Director of the Authority, who shall be appointed by the Board to serve at its pleasure. The Board shall establish the salary of the Executive Director. The Executive Director shall be responsible for the management of the programs, projects and other activities of the Authority, and shall employ, supervise, and terminate the employees of the Authority in accordance with general terms and rules of employment by the Board, except as provided in Section 10 of this act.

Section 10. Budget and Finance Officer. The Executive Director shall appoint, with the concurrence of the Board, a Budget and Finance Officer, for such terms as shall be provided in the by-laws. The Budget and Finance Officer shall receive and disburse all funds of the Authority. Before entering into his duties, he shall execute, at the expense of the Authority, a good and sufficient bond in the sum of not less than \$10,000, or so much greater sum as may be established by the Board.

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Said bond shall be made with one or more sufficient sureties authorized to do business in the Federated States of Micronesia; and shall approved as to form by the Attorney General of Truk State. The Budget and Finance Officer shall serve at all times under the direct supervision of the Executive Director.

Section 11. Accounts and Records. The Board and the Executive Director shall be jointly responsible to ensure that the Budget and Finance Officer prepares proper and complete books of accounts reflecting all income, expenditures, assets, and liabilities of the Authority, including appropriations, grants, and property. The Board, not later than sixty days after the close of each fiscal year, shall submit to the Governor and Speaker of the Legislature a complete report showing the activities of the Authority during the fiscal year, the present condition of the Authority, and such other matters as the Board shall deem appropriate. The Auditor, or if there be no such officer, a licensed accountant appointed by the Board, shall inspect and audit all accounts of the Authority at least annually, and report thereon to the Governor and Speaker of the Legislature.

Section 12. Taxation of the Authority. To the extent that the legislative capacity of the State Government can prescribe, the Authority shall be treated as a governmental entity with regard to its functions that are governmental in character. With respect to such functions that the Authority may undertake that are commercial in character, the Authority shall be treated as a non-profit commercial enterprise.

Section 13. Personnel Administration.

(1) The Authority may establish its own personnel system and policies, independent of the Truk State Public Service System; or may, by appropriate resolution of the Board addressed to the Governor, be included in the Truk State Public Service System for purposes of its personnel administration; provided that, if the Authority chooses to be included

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in the State Public Service System, the Board may designate from time to time such positions as it deems appropriate to be exempted from the system;

(2) All employees of the Authority, including the Executive Director and the Budget and Finance Officer, if members of the Truk State Public Service System prior to their employment with the Authority, shall continue to accrue such rights as their seniority entitles them during employment with the Authority;

(3) The Board may, by general rules applicable to all employees, assign to such employees levels of wages and benefits that take into account, in whole or in part, their prior governmental employment; and

(4) The Truk State Government shall provide to all former employees of the Authority, who shall have terminated their employment in good standing, such rights of employment and seniority as their service to the Authority, as well as prior government services, would entitle them as if all such service were with the Truk State Government, or the Trust Territory Government.

Section 14. Notification to Municipal Government Regarding Projects. The Authority shall endeavor to inform affected municipal governments of any projects planned for their communities at the earliest practical opportunity and shall continue to inform the municipal governments and members of the public of the nature of the projects and any substantial changes in their plans.

Section 15. Land Acquisition and Relocation Assistance.

(1) Any activity of the Authority which requires the acquisition of a right in private real property shall be governed by the requirements of Chapter 9 and 10 of Title 67 of the Trust Territory Code. The State Government shall be responsible for such property acquisition and relocation assistance; and



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(2) The Authority shall promptly notify the State Government whenever it requires use or acquisition of private real property of the State or Public Lands Authority. The notification shall describe with specificity the property to be used or acquired, the reasons for its need, the extent and duration of possession required, alternative possibilities that have been considered and rejected and the reasons therefor, and the date by which such acquisition or use is expected to commence. Any rights in private property acquired for the benefit or use of the Authority shall be held by the State Government, except as otherwise specifically provided by law.

Section 16. Appropriation. The sum of \$25,000, or so much thereof as may be necessary, is appropriated from the General Fund of the State for the purpose of defraying the operation and contingent expenses of the Witto Resources and Development Authority. The sum appropriated shall be administered by and is allotted to the Board of the Authority which shall be responsible to the Legislature for ensuring that the funds are used only for the purposes specified in this Act, and that no obligations are incurred in excess of the sum appropriated. Any part of this fund not obligated at the end of each fiscal year, shall revert to the General Fund of the State.

Section 17. Report. The Board shall submit a report to the Legislature before April 15, of each fiscal year, which shall:

(1) provide for the full disclosure of the obligations incurred against the sum appropriated, and indicate the status of funds as of April 1, of each year;

(2) indicate the planned use, during the remainder of the fiscal year of funds not obligated as of April 1, of each fiscal year, provided that a supplemental report covering the actual use and obligation of the fund shall be submitted to the Legislature or an appropriate committee thereof within 20 days after the closing of the fiscal year; and


(3) present the fiscal support requirements of the Witto Resources and Development Authority for the next fiscal year.

Section 13. Effective Date.

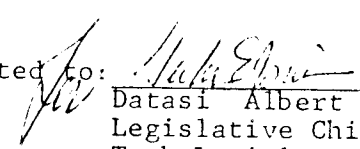
(1) Section 16 of this Act shall take effect on October 1, 1983, upon approval by the Governor, or upon its becoming law without such approval; and

(2) This Act shall take effect upon approval by the Governor, or upon its becoming law without such approval.

Signed by:

  
Kisande Sos, Speaker  
Truk Legislature

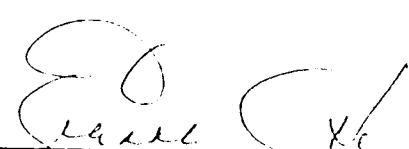
Attested to:

  
Datasi Albert  
Legislative Chief Clerk  
Truk Legislature

Date:

8/11/83

Dis Approved by:

  
Erhart Aten, Governor  
Truk State Government

OVERRIDDEN  
9/23/83

Date:

August 18, 1983