

CHAPTER 2

Public Service Salaries

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§ 201. Short title.

This chapter is known and may be cited as the “Public Service Salary Act of 1979.”

Source: COM PL 5-51 § 1; COM PL 6-65 § 1; PL 1-46 § 1.

Editor’s note: Prior Trust Territory salary legislation, COM PL 5-51 and COM PL 6-65, was not codified.

Case annotations: A basic premise of public employment law is that the rights of a holder of public office are determined primarily by reference to constitutional, statutory and regulatory provisions, not by the principles of contract which govern private employment relationships. *Sohl v. FSM*, 4 FSM R. 186, 191 (Pon. 1990).

Subject to constitutional limitations, the public has the power, through its laws, to fix the rights, duties and emoluments of public service, and the public officer neither bargains for, nor has contractual entitlements to them. *Sohl v. FSM*, 4 FSM R. 186, 191 (Pon. 1990).

The amount of compensation a public employee receives is not based on quasi-contract doctrines such as quantum meruit or unjust enrichment, but instead is set by law, even if the actual value of the services rendered by a public officer is greater than the compensation set by law. *Sohl v. FSM*, 4 FSM R. 186, 192 (Pon. 1990).

Public employees are only entitled to receive the benefits prescribed by law for positions to which they have been duly appointed, even if an officer or employee has performed duties or services above and beyond those of the appointed office. *Sohl v. FSM*, 4 FSM R. 186, 192 (Pon. 1990).

A public officer claiming certain compensation or other benefits must show a clear legal basis for his right to these emoluments; hopes and expectations, even reasonable ones, are not enough to create that legal entitlement, nor are any moral obligations which may be incurred, without clear warrant of law. *Sohl v. FSM*, 4 FSM R. 186, 193 (Pon. 1990).

The compensation of public officials in the FSM is not determined by a contract for specific services, express or implied, but by the judgment of the people, through their elected representatives and executive officials who properly exercise delegated power pursuant to statutory or other authorization; specifically, the FSM Constitution and statutes establish how a person may attain public office, and the National Public Service System Act and regulations thereunder set the compensation to be paid to holders of the respective offices. *Sohl v. FSM*, 4 FSM R. 186, 194 (Pon. 1990).

Where a public official claims additional compensation, it is inappropriate to ask whether he received compensation equal to the value of his services to the public, but instead the court must inquire whether he received the amount that was due to him by law or whether he can demonstrate a clear legal entitlement to the office which would have provided the compensation he now seeks. *Sohl v. FSM*, 4 FSM R. 186, 194 (Pon. 1990).

§ 202. Statement of purpose.

(1) It is the declared purpose of the Congress of the Federated States of Micronesia, in establishing a salary plan, to provide a single uniform base salary schedule from which shall be derived the base salary to be paid all employees of the Government of the Federated States of Micronesia in positions not specifically exempted by section 117 of this title, regardless of their nationality or form of employment.

(2) The Congress recognizes that, so long as the Government of the Federated States of Micronesia employs expatriate personnel, certain premiums must be provided in addition to base salary in order to attract and retain such personnel. Therefore, it is the further purpose of the Congress to establish reasonable standards and limitations for determining such premiums.

Source: COM PL 5-51 § 2; PL 1-46 § 2; PL 11-81 § 4.

Cross-reference: The statutory provisions on the President and the Executive are found in title 2 of this code. The statutory provisions on the Congress of the Federated States of Micronesia are found in title 3 of this code. The statutory provisions on the FSM Supreme Court and the Judiciary are found in title 4 of this code.

The website of the FSM National Government contains announcements, press releases, news, forms, and other information on the National Government at <http://fsmgov.org>.

The FSM Supreme Court website contains court decisions, rules, calendar, and other information of the court, the Constitution, the code of the Federated States of Micronesia, and other legal resource information at <http://www.fsmsupremecourt.org/>.

The official website of the Congress of the Federated States of Micronesia contains the public laws enacted by the Congress, sessions, committee hearings, rules, and other Congressional information at <http://www.fsmcongress.fm/>.

§ 203. Definitions.

Except as otherwise provided in this section, or unless the context clearly requires otherwise, terms used in this chapter shall have the meaning ascribed in section 112 of this title.

(1) “Prime contract” means an appointment to a full-time permanent position which requires the services of a noncitizen of the Federated States of Micronesia recruited and hired outside the Federated States of Micronesia, under an initial contract of not more than two years' duration.

(2) “Promotion” means movement of an employee to a position of greater difficulty and responsibility, usually compensated at a higher pay level than his current position, but in the same series of classes or clearly forming part of the same career ladder as his current position.

(3) “Transfer” means movement of an employee from his current position to a new position in the same class as his current position, or in a class so closely related that similar or identical qualification standards apply to both positions and compensated at the same pay level as his current position.

(4) “United States citizen” means, for the purpose of this chapter, a United States citizen eligible for a United States passport. The enactment of this definition shall not impair the obligation of any existing contract with a person who was classified as a United States citizen by prior law but is not so classified by this chapter. However, no renewal of such contract may classify such person as a United States citizen unless he shall have come eligible for such classification by the time of renewal.

Source: COM PL 5-51 § 3; COM PL 6-65 § 3; COM PL 6-98 § 2; PL IC-13 §§ 4, 5, 6; PL 1-46 § 3; PL 11-81 § 5.

§ 204. Applicability.

This chapter shall be applicable to all employees and positions in the central Government of the Federated States of Micronesia now existing or hereafter established except those exempt from the National Public Service System by the provisions of section 117 of this title, except insofar as other provisions of that chapter make this chapter specifically applicable.

Source: COM PL 5-51 § 4; PL 1-46 § 4.

§ 205. Base Salary schedule of biweekly salary rate.

Pay Level	Steps						
	1	2	3	4	5	6	7
1	\$137.46	\$141.46	\$145.46	\$149.46	\$154.26	\$159.06	\$163.86
2	141.46	145.46	149.46	154.26	159.06	163.86	169.46
3	145.46	149.46	154.26	159.06	163.86	169.46	175.06
4	149.46	154.26	159.06	163.86	169.46	175.06	181.46
5	154.26	159.06	163.86	169.46	175.06	181.46	187.86
6	159.06	163.86	169.46	175.06	181.46	187.86	195.06
7	163.86	169.46	175.06	181.46	187.86	195.06	202.26
8	169.46	175.06	181.46	187.86	195.06	202.26	210.26
9	175.06	181.46	187.86	195.06	202.26	210.26	218.26
10	181.46	187.86	195.06	202.26	210.26	218.26	227.06
11	187.86	195.06	202.26	210.26	218.26	227.06	236.66
12	195.06	202.26	210.26	218.26	227.06	236.66	246.26
13	202.26	210.26	218.26	227.06	236.66	246.26	256.66
14	210.26	218.26	227.06	236.66	246.26	256.66	267.86
15	218.26	227.06	236.66	246.26	256.66	267.86	279.86
16	227.06	236.66	246.26	256.66	267.86	279.86	291.86
17	236.66	246.26	256.66	267.86	279.86	291.86	304.66

18	246.26	256.66	267.86	279.86	291.86	304.66	318.26
19	256.66	267.86	279.86	291.86	304.66	318.26	332.66
20	267.86	279.86	291.86	304.66	318.26	332.66	347.86
21	279.86	291.86	304.66	318.26	332.66	347.86	364.66
22	291.86	304.66	318.26	332.66	347.86	364.66	382.26
23	304.66	318.26	332.66	347.86	364.66	382.26	400.66
24	318.26	332.66	347.86	364.66	382.26	400.66	420.66
25	332.66	347.86	364.66	382.26	400.66	420.66	441.46
26	347.86	364.66	382.26	400.66	420.66	441.46	463.86
27	364.66	382.26	400.66	420.66	441.46	463.86	487.06
28	382.26	400.66	420.66	441.46	463.86	487.06	511.86
29	400.66	420.66	441.46	463.86	487.06	511.86	538.26
30	420.66	441.46	463.86	487.06	511.86	538.26	566.26
31	441.46	463.86	487.06	511.86	538.26	566.26	595.86
32	463.86	487.06	511.86	538.26	566.26	595.86	627.06
33	487.06	511.86	538.26	566.26	595.86	627.06	660.66
34	511.86	538.26	566.26	595.86	627.06	660.66	695.86
35	538.26	566.26	595.86	627.06	660.66	695.86	733.46
36	566.26	595.86	627.06	660.66	695.86	733.46	773.46

37	595.86	627.06	660.66	695.86	733.46	773.46	815.86
38	627.06	660.66	695.86	733.46	773.46	815.86	860.66
39	660.66	695.86	733.46	773.46	815.86	860.66	
40	695.86	733.46	773.46	815.86	860.66		
41	733.46	773.46	815.86	860.66			
42	773.46	815.86	860.66				

The provisions of this schedule shall not operate to decrease the base salary biweekly rate of employees employed on the effective date of the amending Act codified in this section. Furthermore, the base salary biweekly rate of such employees shall not be increased beyond the rate in effect on the effective date of the amending Act codified in this section.

Source: PL 7-121 § 2; PL 15-41 § 1.

Editor's note: The effective date of this section pursuant to PL 15-41 § 1, was October 1, 2008.

§ 206. Compensation of employees who are citizens of the FSM.

(1) Except as otherwise hereinafter provided, employees who are citizens of the Federated States of Micronesia shall receive as compensation a base salary as provided in section 205 of this chapter;

(2) Notwithstanding the provisions of subsection (1) of this section, any employee who is a citizen of the Federated States of Micronesia and who qualifies for either the foreign service premium or the professional premium shall receive the relevant premium in addition to the base salary for the position.

Source: COM PL 5-51 § 6; COM PL 6-65 § 5; PL 1-46 § 6; PL 11-81 § 6.

§ 207. Compensation of employees who are not citizens of the FSM.

(1) Employees who are not citizens of the Federated States of Micronesia and who are recruited and hired under a prime contract shall receive the following compensation:

(a) a base salary as provided in section 205 of this chapter; and

(b) if applicable, a market-place premium pursuant to section 163(1) of this title, or, if qualified, a professional premium pursuant to section 163(3) of this title.

(2) Employees who are not citizens of the Federated States of Micronesia and who are not covered by the provisions of subsection (1) of this section shall receive the same base salary and shall be eligible for the same premiums, differentials, and allowances as employees who are citizens of the Federated States of Micronesia in like positions.

Source: COM PL 5-51 § 7; COM PL 6-65 § 6; COM PL 6-98 § 3; COM PL 7-10 § 2; COM PL 7-136 § 2; PL IC-13 § 2; PL 1-30 § 2; PL 1-46 § 7; PL 11-81 § 7; PL 13-64 § 3.

§ 208. Compensation of employees who are third-country nationals. [REPEALED by PL 13-64 § 4].

Source: COM PL 5-51 § 8; COM PL 6-65 § 7; COM PL 7-10 § 3; COM PL 7-136 § 3; PL IC-13 § 3; PL 1-30 § 3; PL 1-46 § 8; PL 11-81 § 8; PL 13-64 § 4.

§ 209. Entrance salary rate of employees.

(1) The initial base salary rate of a new employee shall be at step 1 of the pay level for the class of his position unless the Personnel Officer determines that a higher rate is needed for recruitment and that such higher rate is appropriate to the qualifications of the applicant; provided that in no case shall such rate be higher than step 4 of the pay level for the class of the position.

(2) Any employees who receives a promotion within the National Public Service System shall have his base salary increased to that step in the pay level for the new position which is next higher than the step at which his current salary is fixed, unless his current salary is higher than step 7 of the pay level, in which case his salary shall remain unchanged.

(3) An employee who receives a transfer within the National Public Service System shall continue to be paid at the same pay level and step as before the transfer, and his time in grade shall continue to be counted as if the transfer had not taken place.

(4) An employee who receives a promotion or transfer from the Trust Territory public service to the National Public Service System shall be entitled to a salary, within the pay level for the new position, which the Personnel Officer finds to be appropriate in view of the employee's qualifications and his salary in the Trust Territory administration. In no case shall the new salary be higher than step 7 of the pay level for the class of the position.

Source: COM PL 5-51 § 9; COM PL 6-65 § 9; PL 1-46 § 9.

§ 210. Existing employment contracts.

The provisions of this chapter shall not impair, change, increase, or decrease the obligations of any existing

employment contract to which the central Government of the Federated States of Micronesia is or becomes party. Every position to be filled after the effective date of this chapter by initial contractual appointment or renewal shall provide for compensation as specified in the provisions of this chapter.

Source: PL 1-46 § 10.

§ 211. Contract renewal bonus.

Any full-time employee entitled to a professional premium hired under a prime contract and entitled to repatriation shall, upon completion of two full years of continuous employment with the Government of the Federated States of Micronesia, be eligible for a contract renewal bonus upon renewal of his/her contract; provided said contract renewal is for a period not less than one full calendar year. The bonus shall be awarded in an amount and under such terms as the Secretary shall determine by regulations issued within 90 days of the effective date of this Act.

Source: PL 11-81 § 9.