

## CHAPTER 2

### Social Security Board

#### SECTIONS

- § 201.       **Creation; Composition; Terms; Organization and procedure; Compensation.**
- § 202.       **Powers and duties generally.**
- § 203.       **Promulgation of regulations; Hearings; Employees; Annual report.**
- § 204.       **Maintenance of records; Disclosure of records.**
- § 205.       **Appointment of district directors.**
- § 206.       **Audit of records; Power to subpoena; Administrative of oaths.**
- § 207.       **Actuaries and actuarial valuations.**
- § 208.       **Review of Board determinations.**

**Editor's note:** Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation "subtitle I" has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, "Federated States of Micronesia Social Security Act," as subtitle II. Accordingly, "this title," as it appears in chapters 1 through 5, should be read "this subtitle."

#### **§ 201. Creation; Composition; Terms; Organization and procedure; Compensation.**

- (1) There is hereby created a Trust Territory Social Security Board of five members appointed by the High Commissioner to administer the Social Security and prior Government service insurance programs authorized by this title.
- (2) The Board shall serve two year terms and shall provide for its own organization and procedure.
- (3) Members of the Board who are not Government employees shall be paid at the rate of \$30 per day and necessary travel expenses when actually attending meetings of the Board. If a member of the Board is concurrently employed by the Government of the Trust Territory, he shall receive his salary during attendance at Board meetings; provided that if his daily salary shall be less than \$30, he shall also be entitled to receive the difference between his daily salary and \$30.

**Source:** COM PL 3-40 § 4(a); TT Code 1970, 73 TTC 51; TT Code 1980, 73 TTC 51.

**Cross-reference:** The statutory provisions on the FSM Social Security Act are found in subtitle II of this title.

### **§ 202. Powers and duties generally.**

(1) The Board shall have the powers and privileges of a corporation, shall have an official seal, and shall in the name “Trust Territory Social Security System Board” transact all business, enter into contracts, invest all funds, or retain a firm to invest or reinvest funds under the Board’s supervision and under the rules, regulations, and conditions the Board may issue from time to time, transfer, or assign such funds as herein authorized, purchase annuities, and hold in trust for the purposes for which received all cash, securities, and other properties of the system.

(2) In the name “Trust Territory Social Security System Board” it may sue and be sued.

(3) The general administration and responsibility for the proper operation of this title shall be vested in the Board, which shall have power to delegate duties and responsibilities to such employees as it deems feasible and desirable to carry out the provisions of this title.

**Source:** COM PL 3-40 § 4(b); COM PL 4-31 § 1; TT Code 1970, 73 TTC 52; TT Code 1980, 73 TTC 52.

### **§ 203. Promulgation of regulations; Hearings; Employees; Annual report.**

(1) The Board may adopt, amend, or rescind regulations for the administration of this title subject to the approval of the High Commissioner.

(2) It may hold hearings or make decisions upon hearings delegated to others for the purpose of determining any question involving any right, benefit, or obligation of any person subject to this title.

(3) It may hire and fix the compensation of such employees it deems necessary within the limits of available administrative funds budgeted for its operation and it may contract for special actuarial and insurance counseling on a fee basis.

(4) It shall bond itself and its employees in such amounts as it shall fix.

(5) It shall submit to the High Commissioner and the Congress of Micronesia for each fiscal year a report of its operations and the conditions of its funds, and in such report shall make recommendations for amendments to this title it deems desirable.

**Source:** COM PL 3-40 § 4(c); TT Code 1970, 73 TTC 53; TT Code 1980, 73 TTC 53.

**Case annotation:** Section 203(2) of Title 53 provides that the Social Security Board may hold hearings or make decisions upon hearings delegated to others for the purpose of determining any question involving any right, benefit, or obligations of any person subject to Title 53. Thus Social Security has in part a quasi-judicial function. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 101, 103 (Kos. 2003).

### **§ 204. Maintenance of records; Disclosure of records.**

The Board shall receive and maintain files and records of all employers and all employees subject to this title. Such records shall not be disclosed to any person except as may be required in the administration of this title, or in connection with a hearing conducted in accordance with the provisions of this title.

**Source:** COM PL 3-40 § 4(d); TT Code 1970, 73 TTC 54; TT Code 1980, 73 TTC 54.

**Case annotation:** While section 204 of Title 53 provides that the Social Security Board shall receive and maintain files and records of all employers and all employees subject to this Title, no specific Social Security rule or regulation requires that the Board's final decision take the form of an "order," or that it be "entered" in some specifically defined way. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 101, 103 (Kos. 2003).

### **§ 205. Appointment of district directors.**

The Board shall have the authority to appoint district directors and delegate such power to such directors as it may by regulation prescribe.

**Source:** COM PL 3-40 § 4(e); TT Code 1970, 73 TTC 55; TT Code 1980, 73 TTC 55.

### **§ 206. Audit of records; Power to subpoena; Administrative of oaths.**

The Board and its authorized representatives shall have the power to audit employer records, issue subpoenas, and administer oaths appropriate to the administration of this title.

**Source:** COM PL 3-40 § 4(f); TT Code 1970, 73 TTC 56; TT Code 1980, 73 TTC 56.

### **§ 207. Actuaries and actuarial valuations.**

The Board shall employ or contract with actuaries or actuarial firms for the purpose of making actuarial valuations of the Trust Territory Social Security System not less frequently than each three years after the date of commencement of the system. Such reports made to the Board shall be submitted with appropriate recommendations for changes in the system and amendments to this title to the High Commissioner and the Congress of Micronesia.

**Source:** COM PL 3-40 § 4(g); TT Code 1970, 73 TTC 57; TT Code 1980, 73 TTC 57.

### **§ 208. Review of board determinations.**

(1) Any person aggrieved by a final order of the Board may obtain a review of the order in the Trial Division of the High Court by filing in Court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part.

(2) A copy of the petition shall be served on the Board, by service on its secretary or other designated agent, and thereupon the Board shall certify and file in Court a copy of the record upon which the order was entered.

(3) The findings of the Board as to the facts, if supported by competent, material, and substantial evidence, shall be conclusive.

(4) If either party applies to the Court for leave to adduce additional material evidence, and shows to the satisfaction of the Court that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives, and that such evidence is competent, material, and substantial, the Court may order the additional evidence to be taken by the Board and to be adduced upon the hearing in such manner and upon such conditions as the Court considers proper. The Board may modify its findings and order after receipt of further evidence together with any modified or new findings or order.

(5) The judgment of the Court upon the record shall be final, subject to review by the Appellate Division of the High Court upon petition of any aggrieved party, including the Board, within 60 days from judgment.

**Source:** COM PL 3-40 § 4(h); TT Code 1970, 73 TTC 58; TT Code 1980, 73 TTC 58.

**Case annotation:** Since "enter" means to place anything before a court, or upon or among the records, in a formal and regular manner, and usually in writing, and since common sense must play a part in the way that an agency's statutorily mandated procedures are interpreted, a letter from the Social Security Board stating that it is a final decision by the Board, and that the petitioner has the option of appealing to the FSM Supreme Court, is a final, entered order within the meaning of 53 F.S.M.C. 208. *Andrew v. FSM Social Sec. Admin.*, 12 FSM R. 101, 103-04 (Kos. 2003).