

TITLE 14

PUBLIC UTILITIES

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Subchapter II: The Authority

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§111. Yap Transportation and Construction Authority.

There is hereby created an authority of the State to be designated and known as the Yap Transportation and Construction Authority, hereinafter referred to as the 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.

Source: YSL 1-23 §3, modified.

Cross-reference: The statutory provisions on Civil Proceedings are found in Title 31 of this Code.

§112. Powers.

The Authority, in addition to the powers and duties elsewhere conferred and imposed, shall have the following duties and powers:

(a) The Authority shall have the power to adopt and enforce rules and regulations concerning its operations.

(b) The Authority shall serve as a conduit for public funds to construct and maintain public facilities and projects.

(c) The Authority may generally carry on the business of establishing, developing, maintaining, operating and managing facilities for the construction and maintenance of public facilities and projects with all powers incident thereto.

(d) The Authority shall be authorized to purchase, lease, and sell real or personal property, supplies, goods, materials, and commodities and to 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

State, or any political subdivision or taxing authority of the State, However, such exemption shall not apply to persons entering into independent contracts with the Authority.

(i) The Authority is authorized to apply for, accept, expend and repay the Government of the United States, the Trust Territory, the Federated States of Micronesia, or the 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 chapter. 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 a separate denominated account.

(j) 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 chapter. Upon the request of the Manager, employees of the State Government 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.

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

(l) 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.

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

Source: YSL 1-23 §4, modified.

Cross-reference: The statutory provisions on Public Property, Purchasing and Contracts are found in Title 9 of this Code.

§116. No financial interest by members.

No Director, officer, or employee of the Authority, either for himself or as agent for anyone else, shall benefit directly or indirectly by reason of any sale, purchase, contract or transaction entered into by the Authority except as otherwise provided by this chapter. Any person who shall directly or indirectly become interested in any such sale, purchase, contract or transaction while serving as a Director, officer, or employee of the Authority shall be guilty of a misdemeanor. Immediately upon conviction of a violation thereof, said person shall forfeit his office or position. Upon the filing of a complaint of such misdemeanor the Board in its judgment may suspend the services of the charged person pending final determination thereof. Upon conviction thereof, he shall be punished by a fine not to exceed \$2,000.00 or by imprisonment not to exceed one year, or both.

Source: YSL 1-23 §16, modified.

Cross-reference: The constitutional provision on the prohibition of use of government revenue, property, or service for personal benefit or gain is found in Yap Const., Art. XIV, Sect. 4. That section states: "No person may receive, use, or benefit from any government revenue, property, or service for personal benefit or gain, except as may be permitted by law."

§117. State may assist Authority in carrying out its functions.

For the purpose of aiding in this planning, undertaking or carrying out of the provisions of this chapter 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 project will benefit and further the public purposes of the State shall:

(a) 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;

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

Subchapter III: The Board

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§141. Composition of the Board.

All powers vested in the Authority shall be exercised by the Board, which shall consist of five members, called Directors nominated and appointed by the Governor with 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.

Source: YSL 1-23 §5.

§142. Meetings of the Board.

Within fifteen days after the appointment of 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. All vacancies occurring in the office of the Director shall be filled by the Governor for the unexpired term of the Director whose vacancy is being filled.

Source: YSL 1-23 §6, modified.

§143. 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 to keep the minutes and records of the Board, who may or may not be a member of the Board itself. Any four members of the Board shall constitute a quorum, and a concurrence of four members shall be necessary for any official action taken by the Board unless otherwise provided herein. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board. The Directors

(g) To cause to be published within sixty days after the end of each fiscal year a financial status of the Authority on the last day thereof, publication shall be made in the manner provided by the Board;

(h) To perform such other and additional duties as the Board may require; and

(i) To be an ex-officio nonvoting member of the Board.

Source: YSL 1-23 §9, modified.

§146. 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 compensation shall be fixed by the Board. The Board may appoint one or more assistants to any such office.

(a) 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 chapter. 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.

(b) The attorney shall advise the Board and the Manager in all legal matters to which the Authority is legally interested.

(c) 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.

Source: YSL 1-23 §10, modified.

furnished to the Governor and the Legislature.

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

(c) There is hereby established a fund that shall be known as the "Yap Transportation and Construction Authority Fund" which shall be maintained separate and apart from other funds of the State by the Authority, and independent records and accounts shall be maintained in connection therewith.

(d) 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 chapter, ineligible banks as defined in this chapter.

(e) All expenditures, except as otherwise provided by law, shall be made from said Yap Transportation and Construction Authority Fund.

Source: YSL 1-23 §13, modified.

Cross-reference: The statutory provisions on Taxation and Finance are found in Title 13 of this Code.

§149. 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.

Source: YSL 1-23 §14, modified.

Cross-reference: The statutory provisions on Public Officers and Employment are found in Title 8 of this Code.

§150. Authority exempt from execution and bond requirements.

No execution shall be issued or levied by virtue of any judgment that may be recovered against the Authority, but the Board may provide for the payment of judgments from future revenues of the Authority after final recovery of any judgment or by the payment out of any funds on hand and

Subchapter IV: Miscellaneous Provisions

§181. Succession.

§182. Severability.

§181. Succession.

The Yap District Transportation and Construction Authority created pursuant to the provisions of sections 5675 to 5684 of the Yap District Code shall be succeeded by the Authority and all assets, liabilities, and activities of the Yap District Transportation and Construction Authority shall be transferred to the Authority. Members of the Board of Directors of the Yap District Transportation and Construction Authority shall be deemed to have been nominated and appointed by the Governor and confirmed by the Legislature as Directors of the Authority on the effective date of this chapter. On the first Board two members shall serve for a term of one year and three members for a term of two years. The terms of the respective members shall be determined by drawing lots at the initial meeting of the Board.

Source: YSL 1-23 §22, modified.

Commission Comment: The effective date of this chapter was July, 1979.

§182. Severability.

If any provision of this chapter or any rule, regulation, or order promulgated hereunder, or the application of any such provision, rule, regulation, or order to any person or circumstances shall be held invalid, the remainder of this chapter, 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.

Source: YSL 1-23 §21, modified.