

TITLE 33

ROADS

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CHAPTER

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CHAPTER 1

POHNPEI TRANSPORTATION AUTHORITY [PENDING, *see* 33 PC 1-134]

Section

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§1-101. Short title. — This chapter is known and may be cited as the “Pohnpei Transportation Authority Act of 1998.”

Source: S.L. No. 4L-93-99 §1-1, 12/25/98

§1-102. Definitions. — As used in this chapter, unless the context requires otherwise:

- (1) “Authority” means the Pohnpei Transportation Authority created by this chapter.
- (2) “Board” means the Board of Directors of the Authority.
- (3) “Commissioner of Transportation” or “Commissioner” means the chief administrative officer of the Authority.
- (4) “Person” means any individual, firm, partnership, corporation, company, association, joint stock association, body politic or municipal corporation, including any trustee, receiver, assignee or other similar representative thereof.
- (5) “PTA agency” means the agency of the Pohnpei Government known as the Pohnpei Transportation Authority as established pursuant to §§10-1 through 10-6, as amended, of the Ponape District Code.
- (6) “Revenue” means all monies or receipts, however derived, received or collected from the rates, rentals, fees, and charges prescribed for services of and the facilities and commodities furnished by the Authority.
- (7) “Roads and highways” means all portions of the publicly maintained ways of the state that are now open or designed to be opened to the public for the purpose of vehicular traffic, regardless of length and size. The phrase “roads and highways” encompasses the entire width of the roadway between the boundary lines of every publicly maintained way, and includes shoulders, bridges, culverts, drainage systems, embankments, and such other support works necessary for a safe and efficient public vehicular transportation network.
- (8) “Rules and regulations” means rules and regulations of general application issued by the Authority, interpreting or regulating the application of this chapter, but shall not apply to the internal operation of the Authority.

Source: S.L. No. 4L-93-99 §1-2, 12/25/98

§1-103. Creation of the Authority. — There is hereby created a body corporate in the state of Pohnpei called the Pohnpei Transportation Authority. Its functions shall be public and it shall have the right to sue and be sued in its own name. The Authority shall be solely responsible and liable for any indebtedness, obligation or liability incurred by the Authority, and the revenues, grants and assets of the Pohnpei Government shall be immune from attachment, seizure, forced sale or any other form of judicial remedy thereof.

Source: S.L. No. 4L-93-99 §2-1, 12/25/98

§1-104. Powers of the Authority. — The Authority, in addition to the powers and duties elsewhere conferred and imposed, shall have the following powers and duties:

- (1) It may generally carry on the business of serving as the state’s representative in establishing and maintaining a network of public roads and highways for the people of the state, with all the powers incident thereto;
- (2) It shall be authorized and shall have jurisdiction to plan, develop, construct, improve, extend, widen, repair and maintain all public roads and highways under the jurisdiction of the state unless otherwise prescribed by law;
- (3) It shall be authorized to purchase, lease, and sell real or personal property, supplies, goods, materials and commodities and to furnish and supply services and utilities as incident to the operation of its properties;
- (4) 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 judgment, are useful, desirable or convenient in carrying out its responsibilities under this chapter. The Authority may also enter into agreements with the Pohnpei Government, the Government of the Federated States of Micronesia, and their departments and agencies, for the rendering of services performed by such departments and

agencies with respect to the roads and highways of this state including, but not limited to, the rendering of maintenance, planning, and purchasing services;

(5) The Authority shall, upon concurrence of the Governor and in accordance with the Administrative Procedures Act, Title 8 Chapter 1, as amended or superseded, and this chapter, have the power to adopt and enforce rules and regulations for the conduct of its activities pursuant to this chapter;

(6) The Authority shall have such free use of government pouch mail as is available to the government;

(7) The Authority, including but not limited to its franchise, capital, obligations including interest thereon, reserves, surpluses, loans, income, assets, and property of any kind shall be exempt from all licensing and taxation now or hereafter required or imposed by the Federated States of Micronesia or by the state, or any political subdivision or taxing authority of the Federated States of Micronesia, or of future entities created to take the place of the above to the maximum extent allowable by law. However, such exemption shall not apply to persons entering into independent contracts with the Authority;

(8) 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 Commissioner of Transportation, employees of the Pohnpei Government may be assigned by the government to assist the Authority to carry out activities of the Authority as set forth herein. The expenses thereof, if any, shall be reimbursed by the Authority;

(9) The fiscal year of the Authority shall correspond to that of the Pohnpei Government;

(10) The principal office of the Authority shall be in Pohnpei State;

(11) 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. Except as provided by §1-132, they shall be exempt from the application of the Public Service System Act, Title 9 Chapter 2. The Authority may set its own compensation, wage and salary scales. The wage and salary scales shall be commensurate with those paid by the Pohnpei Government requiring comparable education, training, and experience, except for the compensation of the Commissioner of Transportation and other specialists for which no comparable Pohnpei Government positions exist;

(12) The Authority is authorized to apply for, accept and use in the name of the Authority, any lands now controlled by other persons or entities which may be made available to the Pohnpei Government for the purposes of the Authority;

(13) The Authority shall procure insurance against liability or loss in connection with its operations hereunder in such amounts and from such insurers as it deems practicable;

(14) Budget:

(a) The Authority, on or before March 15 each year, shall prepare and submit to the Governor a detailed statement of its proposed budget for the ensuing fiscal year;

(b) Within a period of 30 days after the submission of said proposed budget, the Governor shall notify the Authority of his approval or disapproval thereof. In the event said proposed budget is approved by the Governor, the same shall constitute the adopted budget of the Authority for the next fiscal year period;

(c) In the event the Governor notifies the Authority of his disapproval of the proposed budget, the Authority and the Governor or their representatives shall, within ten days after notification by the Governor, meet and discuss the proposed budget in an endeavor to agree upon a satisfactory budget;

(d) In the event a satisfactory agreement is not reached within ten days thereafter, the said proposed budget shall be submitted for consideration and decision to a board of arbiters, to consist of two members of the Authority, two members to be appointed by the Governor and

the fifth member to be appointed by the other members. The said board of arbiters shall thereafter submit such a budget as the majority of said board shall agree upon. The decision of the arbiters shall be final and the budget submitted shall constitute the adopted budget of the Authority for the ensuing fiscal year; and

(e) No expenditures shall be made for a purpose not included in the adopted budget, and no debt, obligation, or liability shall be incurred or created in any period for which the budget was adopted in excess of the amounts specified therein for each purpose named unless with the express approval of the Governor;

(15) The budget of the Authority may be amended in the same manner as its initial adoption;

(16) Any other provision herein to the contrary notwithstanding, the written concurrence of the Governor shall first be secured by the Authority before entering into any contract extending for more than one year or which involves the payment or receipt of \$25,000 or more; and

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

Source: S.L. No. 4L-93-99 §2-2, 12/25/98

§1-105. Composition of the Board; removal; vacancies. — All powers vested in the Authority shall be exercised by the Board, which shall consist of seven members, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons appointed shall hold membership on the Board for a period of four years, subject to reappointment, and until their successors have been appointed and qualify. A Board member may only be removed for cause either by the Governor or by two-thirds vote of the remaining members of the Board. All vacancies occurring on the Board shall be filled by the Governor with the advice and consent of the Legislature, but only for the unexpired term of the member whose vacancy is being filled.

Source: S.L. No. 4L-93-99 §2-3, 12/25/98

§1-106. Meetings of the Board. — Within 15 days after the appointment of the initial Board at the call of the Governor, and annually thereafter, the Board shall hold a meeting for the purpose of electing its officers for the ensuing year. The Board shall hold at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business. The Board may convene in special meetings as it may deem necessary.

Source: S.L. No. 4L-93-99 §2-4, 12/25/98

§1-107. Organization of the Board; quorum; compensation and expenses. — The Board shall organize by electing one of its members as Chairman and another as Vice-Chairman. The Board shall also designate from among its members a Secretary to keep the minutes and records of the Board. 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 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. Members of the Board shall be compensated at the rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, for members of Pohnpei Government policy boards and commissions, as amended or superseded by Pohnpei law, when actually attending meetings of the Board, except that those members who are employees of the Pohnpei Government and other cooperative entities shall receive, instead, their regular salaries while performing functions of the Board. All members shall also receive travel expenses and per diem at Pohnpei Government rates when those amounts would be payable to Pohnpei Government employees in the same circumstances.

Source: S.L. No. 4L-93-99 §2-5, 12/25/98

§1-108. Appointment of a Commissioner of Transportation; duties. — The Board shall appoint a Commissioner of Transportation who shall be the chief administrative officer. The salary of the Commissioner shall be set by the Board. The Commissioner shall have full charge and control of the operations of the Authority, and of construction projects, facilities, and necessary works controlled by or required to be constructed or repaired by the Authority. The Commissioner must have a B.S. degree in civil or structural engineering, with a minimum of five years of engineering work experience and three years of supervisory experience. The Commissioner shall serve for a term of four years, subject to removal for cause by majority vote of the entire membership of the Board, without regard to vacancies. The Commissioner may be reappointed at the end of each term.

Source: S.L. No. 4L-93-99 §2-6, 12/25/98

§1-109. Powers of the Commissioner of Transportation. — The Commissioner of Transportation shall have the following powers:

- (1) To ensure that all rules and regulations of the Authority are enforced;
- (2) To attend all meetings of the Board and to submit a general report on the affairs of the Authority;
- (3) To keep the Board advised of the needs of the Authority;
- (4) To approve demands for payment of obligations within the purposes and amounts authorized by the Board;
- (5) To prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities of the Authority;
- (6) To devote his entire working time to the business of the Authority; to select and appoint the employees of the Authority, except as otherwise provided in this chapter; to plan, organize, coordinate and control the services of such employees in the exercise of the powers of the Authority under the general direction of the Board; and, in lieu of hiring employees to perform any of the tasks, work or other services required by the Authority, to contract with independent contractors, as persons, organizations, or corporations, to provide such services;
- (7) To 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) To perform such other and additional duties as the Board may require; and
- (9) To be an ex-officio nonvoting member of the Board.

Source: S.L. No. 4L-93-99 §2-7, 12/25/98

§1-110. Appointment of comptroller and general counsel; duties of each. — The Commissioner of Transportation, with the approval of the Board, shall appoint a comptroller and a general counsel, both of whom shall serve at the pleasure of the Board and whose duties and compensation shall be fixed by the Authority. Such officers may be full-time employees of the Authority, shared with other government agencies, or placed on retainer from the private sector. The Commissioner may appoint one or more assistants to any such office.

(1) The comptroller shall have custody of all monies of the Authority and shall pay out such money only in accordance with the direction of the Commissioner and as provided in the annual budget of the Authority.

(2) The general counsel shall advise the Board and the Commissioner of Transportation in all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, and other domestic and foreign governmental and international organizations, entities, and bodies.

(3) The Authority may use the services of the attorneys for the Pohnpei Government to serve as attorneys for the Authority, or it may appoint such attorney or attorneys as it may deem necessary, and

it shall provide payment of all legal services rendered which are not provided without compensation by the Pohnpei Government. All official documents, contracts, bonds, and other instruments in writing shall be approved as to form and legality by the general counsel for the Authority. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 4L-93-99 §2-8, 12/25/98

§1-111. Procurement code. — Within 120 days following its organization, the Board, by regulation, shall provide for a comprehensive procurement code for the Authority which shall provide for cost-effective means to obtain services, supplies and materials and construction contracts at competitive prices and which shall ensure all business entities within the state are accorded reasonable notice and fair opportunity to engage in business activities with the Authority. Among other things, the procurement code shall provide that:

(1) The purchase of all supplies and materials, and the construction of all works, when the expenditure exceeds \$25,000, shall be let, by contract, to the lowest responsible bidder. Notice requesting bids shall be published at least ten days before bids are received. The Board may reject any and all bids and readvertise at its discretion.

(2) 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 Pohnpei Government, shall utilize the services of the government purchasing agencies wherever practical.

(3) In case of major public calamity, or whenever it is in the interest of safety or necessary to keep the roads and highways open and passable, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the roads and highways open to traffic or in a safe condition, and thereupon authorize the expenditure of such sums as may be needed without the observation of the provisions requiring contracts, bids or notices.

(4) No member of the Board 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 member does not hold or maintain a managerial or professional position or relationship or in which he owns less than five percent (5%) of the entire capital stock. The procurement code shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 4L-93-99 §2-9, 12/25/98

§1-112. Financial matters. —

(1) The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations.

(2) The Board shall 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 Pohnpei Legislature.

(3) 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 or the Pohnpei Legislature, shall present special reports within 30 days after the end of each intervening quarter.

(4) There is hereby established a fund that shall be known as the “Pohnpei Transportation Authority Fund” which shall be maintained separate and apart from other funds of the Pohnpei Government by the Authority and independent records and accounts shall be maintained in connection therewith.

(5) All monies received by the Authority from whatever source derived shall be deposited in said fund or in such other funds as may be established pursuant to this chapter, in eligible banks as defined by §1-113.

(6) All expenditures, except as otherwise provided by law, shall be made from the Pohnpei Transportation Authority Fund.

(7) There is hereby authorized for appropriation from the general fund of the Treasury and such other Treasury funds as may be identified in the Comprehensive Budget Act such sums as may from time to time be appropriated in the Comprehensive Budget Act to provide supplemental financing for the Pohnpei Transportation Authority Fund as established by this section. Upon appropriation, the Director of the Department of Treasury and Administration shall provide for the transfer of the sums so appropriated to the fund established by this section where they shall remain available until fully expended.

Source: S.L. No. 4L-93-99 §2-10, 12/25/98

§1-113. Designation of depository for Authority. — The Board shall designate one or more banks licensed to do business within the state and eligible to receive the deposit of monies of the Treasury under the Financial Organization and Management Act, Title 11 Chapter 2, as amended, to serve as depository for the funds of the Authority. All funds of the Authority shall be deposited in such depository bank or banks. Before designating a depository bank or banks, the Board of Directors shall issue a notice stating the time and place, when and where the Board will meet for such purpose and invite banks in the state to submit application to be designated depositories. The term of service for depository shall be prescribed by the Board. Such notice shall be published at least one time in a newspaper of general circulation in the state or so placed on public broadcast as specified by the Board. At the time mentioned in the notice, the Board shall consider the applications and the management and conditions of the banks filing the same, and shall designate as depository or depositories the bank or banks which offer the most favorable terms and conditions for the handling of the funds of the Authority, and which the Board finds have proper management and are in a condition to warrant handling of Authority funds. Membership on the Board of an officer or director of a bank shall not disqualify such bank from being designated as depository; PROVIDED that such Board member shall state to the Board in writing his interest therein prior to a Board decision thereon and may not participate in Board discussions or votes thereon. If no applications are received by the time stated in the notice, the Board shall designate some bank or banks within the state upon such terms and conditions as it may find advantageous.

Source: S.L. No. 4L-93-99 §2-11, 12/25/98

§1-114. Employee rights and responsibilities. — Within 120 days following its organization, the Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees for the Authority. Employees of the Authority shall be eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workers' compensation insurance available to Pohnpei Government employees. The Authority shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 4L-93-99 §2-12, 12/25/98

§1-115. Preference. — The Authority shall attempt to employ qualified citizens of this state, if at all possible. However, the Authority shall have as its primary concern in employing or contracting for services, the maintenance of safe, self-sufficient, modern and convenient services and facilities for the improvement of travel on the roads and highways of the state.

Source: S.L. No. 4L-93-99 §2-13, 12/25/98

§1-116. Right to challenge rules or regulations adopted by the 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 petition shall be publicly released not more than 20 days after the final public hearing held upon the petition.

Source: S.L. No. 4L-93-99 §2-14, 12/25/98

§1-117. Publication of rules and regulations. — In addition to the notice of adoption of rules or 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 or regulations will subject the violator to a civil penalty as set by the Board in the adoption of the rules and regulations. Said 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 read by any interested person during reasonable business hours.

Source: S.L. No. 4L-93-99 §2-15, 12/25/98

§1-118. No financial interests by members. — No member of the Board, 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 where and to the extent permissible under this chapter. Any person not so excepted who shall directly or indirectly become interested in any such sale, purchase, contract or transaction while serving as a member of the Board, officer or employee of the Authority shall be guilty of a misdemeanor. 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 \$1,000, or by confinement in the Pohnpei State Prison for not more than one year, or by both such fine and imprisonment. Immediately upon conviction of a violation thereof, said person shall forfeit his office or position.

Source: S.L. No. 4L-93-99 §2-16, 12/25/98

§1-119. 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 the final recovery of any judgment or by the payment out of any funds on hand and uncommitted. Lands, 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; but the Board shall make provision by the levying of appropriate fees and charges or otherwise for the payment of any and all indebtedness owed by the Authority. No writ of garnishment or attachment shall issue against the Authority or the members of the Board 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 for any action or nonaction of the Authority occurring within the jurisdiction of this 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 binding upon or be recognized by the Board.

Source: S.L. No. 4L-93-99 §2-17, 12/25/98

§1-120. Government assistance to the Authority in carrying out its functions. — For the purpose of aiding in the planning, undertaking or carrying out of this chapter and of the projects contemplated herein, and where permissible under law, the Pohnpei Government or any agency or political subdivision of such, may, if the chief executive of the respective political jurisdiction or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them:

(1) Dedicate, sell, convey or lease interests in 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 the planning or carrying out the duties, powers and obligations of the Authority;

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

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

Source: S.L. No. 4L-93-99 §2-18, 12/25/98

§1-121. Penalties. — Except as otherwise specifically provided in this chapter, any person who violates any provision of this chapter, or any valid rule or regulation promulgated hereunder, is punishable by a fine not to exceed \$1,000, or by imprisonment not to exceed three months, or both such fine and imprisonment.

(1) Any person who violates any provision of this chapter, or any rule, regulation, or order issued hereunder, or any term, condition, or limitation of any permit, certificate, or operating authority issued by the Authority shall be subject to a civil penalty not to exceed \$1,000 for each violation. If the violation is a continuing one, each day the violation continues is a separate offense.

(2) Any civil penalty may be compromised by the Commissioner of Transportation with the concurrence of the Board. The amount of the penalty when finally determined or agreed upon may be deducted from any sums owed by the Authority to the person or persons charged.

(3) Any person assessed a civil penalty may contest it. If, for any reason, the person assessed fails to pay upon demand of the Commissioner of Transportation, the civil penalty may be collected by the Authority through proceedings against the person in the courts in the state brought by the Attorney General, or the general counsel for the Authority if delegated by the Attorney General.

Source: S.L. No. 4L-93-99 §2-19, 12/25/98; S.L. No. 5L-14-00 §3-33, 10/1/00

§1-122. Rules and regulations: Enforcement by Commissioner. — The Commissioner of Transportation shall enforce rules and regulations of the Authority governing the assessment of civil penalties.

(1) The rules and regulations shall provide for a reasonable time, not less than ten days, for due notice to the person assessed of the nature of the violation committed, and during which the person assessed may answer the assessment by denying liability, by offering a compromise to the Commissioner, or by paying the assessment.

(2) The rules and regulations shall also provide notice that failure to pay the final civil penalty assessed by the time set in the rules and regulations may result in collection of the penalty through the courts of the state.

Source: S.L. No. 4L-93-99 §2-20, 12/25/98

§1-123. Authority may acquire equipment, facilities and interests in real properties. — The power of the Authority conferred by this chapter to purchase or otherwise acquire equipment and facilities necessary for the conduct of its business shall expressly include the power to acquire, without

cost, such interests in equipment and facilities owned or held by the Pohnpei Government for the principal use of the PTA agency. In addition, the Pohnpei Public Lands Trust Board of Trustees is hereby authorized and directed to convey to the Authority, without cost, all interest held by the Board of Trustees in the office buildings, garages, work areas, and other public properties that have been set aside or otherwise reserved for the principal use of the PTA agency; PROVIDED that such conveyances shall not include the transfer of interests held by the Board in the real properties, easements and rights-of-way on which the state's public roads and highways are situated; PROVIDED FURTHER that conveyances of interests in real property for work areas needed for temporary use by the Authority shall be limited to the issuance of lease or use permits of a reasonable length commensurate to the duration of the project for which the property is needed. Any conveyance by the Board to the Authority pursuant to this section may be consummated without the necessity of notice of intention to convey or the necessity of advertisement, or an election on the part of either party, any provision of the laws of the state to the contrary notwithstanding; PROVIDED, HOWEVER, that such conveyance shall retain the right of reversion to the Board of Trustees of any interest in real property conveyed to the Authority under this section and which is no longer used by the Authority for the purposes of this chapter.

Source: S.L. No. 4L-93-99 §2-21, 12/25/98

§1-124. Funding for state road projects. — Unless otherwise directed by law, the Governor shall prescribe that state monies appropriated and grant funds received for the construction, improvement, maintenance or repair of roads and highways, as defined by §1-102(7), be directed to the Authority for the purposes for which the monies or grants are made available under such terms and conditions as shall be mutually agreed by the Governor and the Authority.

Source: S.L. No. 4L-93-99 §2-22, 12/25/98

§1-125. Orderly transition. — The purpose of §§1-125 through 1-133 is to provide an orderly transition from the administration of the Pohnpei Government to administration by the Authority with respect to the responsibilities accorded to the Authority by this chapter.

Source: S.L. No. 4L-93-99 §3-1, 12/25/98

§1-126. First Board and Commissioner. — The members of the Pohnpei Transportation Board and the Commissioner of Transportation of the PTA agency shall serve as the first Board of Directors and Commissioner of Transportation, respectively, of the Authority established by this chapter for the duration of their terms of appointment under the PTA agency, unless any such person shall indicate to the Governor that he does not wish to continue in office as prescribed by this section or is otherwise removed from office pursuant to this chapter.

Source: S.L. No. 4L-93-99 §3-2, 12/25/98

§1-127. Transfer of title to Authority. — At such time as the Board of Directors has organized the functional operations of the Authority, the Governor shall transfer to the Authority upon request of the Board:

(1) All items of property which the Pohnpei Government owns or controls which are used exclusively for the operations of the PTA agency within the state or for operations which are to be assumed by the Authority pursuant to this chapter, and all materials and supplies used or usable exclusively in connection with said purposes;

(2) All items of property and materials and supplies used by the Pohnpei Government for said PTA agency purposes in common with other operations of the Pohnpei Government which the government and Authority agree to transfer; and

(3) All working capital, cash, accounts payable and receivable deposits, advances payable and receivable, all books, records, and documents and all other rights, obligations, assets, liabilities,

agreements, contracts, leases, concessions, and privileges pertaining to the operation of the PTA agency, and other matters and concerns of the Pohnpei Government which are to be assumed by the Authority pursuant to this chapter, including the assets held by the Pohnpei Government in any fund or funds used for the PTA agency.

Source: S.L. No. 4L-93-99 §3-3, 12/25/98

§1-128. Authority to assume rights, obligations and duties of the Pohnpei Government. — The Authority shall assume all transferable rights, obligations and duties of the Pohnpei Government under any agreements that the Pohnpei Government has with any department or agency of the United States of America in connection with the responsibilities of the Authority, and shall be eligible to act for the Pohnpei Government and to do anything necessary to establish eligibility for Federal funds relative thereto.

Source: S.L. No. 4L-93-99 §3-4, 12/25/98

§1-129. Assumption of functions by Authority. — On the date the Authority assumes its functions under this chapter, the Board of Directors or the Commissioner of Transportation, as the case may be, shall immediately commence to employ necessary personnel for the operation of the Authority or contract for the necessary services. The Authority shall for one year offer continuing employment to all employees of the PTA agency assigned to full-time duties coming under the jurisdiction of the Authority at levels no less than they received from said agency and with recognition of accumulated leave, and of seniority with the government in the personnel system established by the Authority.

Source: S.L. No. 4L-93-99 §3-5, 12/25/98

§1-130. Disposition of interim funds. — After the assumption of functions by the Authority, all monies formerly appropriated to, authorized for, received by or paid by the Pohnpei Government on behalf of and for the use and operation of the PTA agency within the state shall be received by and paid from the funds of the Authority established by this chapter.

Source: S.L. No. 4L-93-99 §3-6, 12/25/98

§1-131. Procurement, accounting, and personnel rules applicable during transition. — Until such time as procurement and personnel rules and regulations are adopted by the Board, those procurement and personnel rules and regulations now applicable to the PTA agency and the employees working for the PTA agency and not inconsistent with this chapter shall be applicable to the Authority. The Financial Organization and Management Act, Title 11 Chapter 2, as amended, shall apply to the Authority until §1-112 is fully complied with as certified by the Pohnpei Auditor.

Source: S.L. No. 4L-93-99 §3-7, 12/25/98

§1-132. Existing contracts. — The Authority in assuming the operations of the PTA agency shall honor all existing contracts therein to the extent of their validity, but shall endeavor to renegotiate such contracts in a manner consistent with this chapter. Any extension or renewal of such contracts shall be made in a manner consistent with this chapter.

Source: S.L. No. 4L-93-99 §3-8, 12/25/98

§1-133. Proposal for revenue bonds. — Not later than October 1, 1999, the Authority shall submit to the Governor and the Legislature a comprehensive plan and draft legislation that will enable the Authority to issue revenue bonds. The plan shall contain a summary of potential uses of revenues raised from the issuance of bonds and means by which they will be repaid. The draft legislation shall cover all necessary legal and technical aspects of the issuance and repayments of bonds. The Authority shall attach to the submission the appraisal of the plan and draft legislation by at least two independent financial analysts with experience in the issuance of revenue bonds by public corporations who shall

attest to the propriety and practicality of the proposal and shall provide a comparison of the draft legislation with similar laws of neighboring jurisdictions.

Source: S.L. No. 4L-93-99 §3-10, 12/25/98

§1-134. Repealer. — Sections 10-1 through 10-6 of the Pohnpei Code, as amended, pertaining to the PTA agency are hereby repealed in their entirety; PROVIDED that this section shall take effect upon proclamation of the Governor that the Authority established by this chapter has been organized and is ready to commence business.

Source: S.L. No. 4L-93-99 §3-9, 12/25/98

Note: S.L. No. 4L-93-99 §3-11 severability provision has been omitted.

Extended legislative history: PDC §10-2, 3/71 was amended by D.L. No. 3L-44-72 §1, 11/29/72 and D.L. No. 4L-98-77 §1, 5/17/77; PDC §10-3(a)(1) was amended by S.L. No. 2L-57-81 §31(2), 10/1/81; S.L. No. 2L-173-83 §7(3), 4/22/83 and S.L. No. 2L-177-83 §9, 5/1/83; PDC §10-3(a)(2) was amended by S.L. No. 2L-57-81 §31(2), 10/1/81; PDC §10-3(a)(7) was amended by D.L. No. 4L-98-77 §2, 5/17/77; PDC §10-3(d) was amended by D.L. No. 2L-235-71 §1, 11/27/71; PDC §10-4(f) was amended by S.L. No. 1L-13-79 §1, 11/13/79; PDC §10-4(n) was added by D.L. No. 4L-157-78 §1, 11/15/78; PDC §10-5(g) was amended by S.L. No. 2L-57-81 §31(3), 10/1/81; PDC §10-5(h) was amended by D.L. No. 4L-98-77 §3, 5/17/77; PDC §10-5(j) was amended by D.L. No. 4L-98-77 §4, 5/17/77; D.L. No. 3L-58-73 §25, 5/29/73 adds PDC §10-6; PDC §10-6 was amended by D.L. No. 4L-53-76 §1, 12/6/76 and S.L. No. 1L-71-86 §4-11, 4/1/86; PDC §§10-1 – 10-6, as amended, were repealed in their entirety by S.L. No. 4L-93-99 §3-9, 12/25/98.

CHAPTER 2
PONAPE TRANSPORTATION AUTHORITY

[To be repealed upon implementation of Chapter One, *see* 33 PC 1-134]

Section

2-101 Establishment	2-104 Duties and powers of Ponape Transportation Authority
2-102 Purposes	2-105 Commissioner of Transportation
2-103 Ponape Transportation Board	2-106 Finances

§2-101. Establishment. — There is hereby established the Ponape Transportation Authority, which shall be governed by the Ponape Transportation Board and operated through the office of the Commissioner of Transportation.

Source: PDC §10-1, 3/71

Note: The word "Ponape" is retained in this chapter to distinguish the PTA agency from the PTA public corporation; *see* 33 PC 1-134.

§2-102. Purposes. — The purpose of the Ponape Transportation Authority, hereinafter called the Authority, shall be to promote the development and improvement of the transportation facilities and services within Pohnpei State, which shall include roads, bridges, docks, and piers, channels, harbors, public and private transportation systems, supporting services and related functions and such other construction projects as may from time to time be approved by the Ponape Transportation Board; PROVIDED that the Authority shall assign highest priority to the construction of the belt road and bridges around Pohnpei Island before engaging in the construction of other types of transportation facilities and other construction projects.

Source: PDC §10-2, 3/71; D.L. No. 3L-44-72 §1, 11/29/72; D.L. No. 4L-98-77 §1, 5/17/77

§2-103. Ponape Transportation Board. —

(1) *Functions.* The functions of the Ponape Transportation Board, hereinafter called the Board, shall be the following:

- (a) To supervise the Commissioner of Transportation, who shall be appointed pursuant to the Uniform Appointments and Tenure Act, Title 9 Chapter 1, or its successor in state law;
- (b) To approve the employment and termination of other Authority staff, pursuant to the State Public Service System, Title 9 Chapter 2;
- (c) To approve the plans and programs of the Authority;
- (d) To approve the Authority's annual budget and to transmit it, after approval, to the Legislature for final approval and funding;
- (e) To approve policies and procedures for the operation of the Authority;
- (f) To approve all contracts and claim settlements in excess of five hundred dollars;
- (g) To approve all purchases or sale of Authority property in excess of five thousand dollars; and
- (h) To exercise, through the office of the Chairman of the Board, through committees of the Board, and through the regular and special meetings of the Board, supervision over the Commissioner of Transportation and functioning of the Authority.

(2) *Membership.* The Board shall be composed of nine members appointed by the Governor with the advice and consent of the Legislature. Members must be eligible to vote in state elections, and shall be appointed to terms of office for four years, with the terms of not more than two members

expiring in the same calendar year; PROVIDED that initial appointments to the Board may be for a term of less than four years. No member may be simultaneously an employee of the Authority.

(3) *Officers.* The Board shall elect from among its members the following officers as its first order of business at the first meeting in each calendar year:

- (a) Chairman, who shall preside at the meetings and exercise other normal functions of that office;
- (b) Vice-Chairman, who shall act in the absence of the Chairman and otherwise assist him in carrying out his duties;
- (c) Secretary, who shall record the proceedings of Board meetings; and
- (d) Treasurer, who shall be assisted by staff of the Authority.

(4) *Meetings.* The Board shall hold regular monthly meetings in the first week of each month, and the Chairman shall give notice of each meeting at least one week in advance. Special meetings of the Board may be held at any time, provided each member has been given at least three days notice of the meetings by the Chairman, or such notice has been waived by all members of the Board. A quorum for any meeting shall be five members.

Source: PDC §10-3, 3/71; D.L. No. 2L-235-71 §1, 11/27/71; D.L. No. 4L-98-77 §2, 5/17/77; S.L. No. 2L-57-81 §31(2), 10/1/81; S.L. No. 2L-173-83 §7(3), 4/22/83; S.L. No. 2L-177-83 §9, 5/1/83; S.L. No. 6L-79-06 §2-111, 11/1/06

§2-104. Duties and powers of Ponape Transportation Authority. — The duties and powers of the Authority, governed by the Board and under the direction of the Commissioner of Transportation, and in furtherance of the purposes of the Authority, are the following:

(1) To carry out the programs approved by the Board, in accordance with Board-approved policies and procedures.

(2) To acquire personal property of all descriptions (in accordance with an approved budget) and to hold, use, maintain, operate, sell or otherwise dispose of the same in accordance with procedures approved by the Board.

(3) To receive, hold and disburse funds.

(4) To enter into and perform such contracts, leases, cooperative agreements or other transactions with any agency of the national government, or with any state or local government, or with any political subdivision thereof, or with any firm, person, association, cooperative or corporation as may be deemed necessary or appropriate to the conduct of the activities authorized under this chapter.

(5) To settle and adjust claims held by it against other persons or parties, and by other persons or parties against the Authority.

(6) 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 payments therefor, such revenues to go into the general fund of Pohnpei; PROVIDED that such revenues are hereby continuously appropriated for the purposes specified in §2-106; PROVIDED FURTHER that the revenues deposited in the general fund and thereafter continuously appropriated for the purposes of §2-106 shall not be subject to reversion at the end of the fiscal year.

(7) To prepare programs and plans for the development, improvement, extension, use and maintenance of roads, bridges, docks and piers, channels and harbors in Pohnpei State.

(8) To prepare an annual budget of anticipated revenues and expenditures for the consideration and approval by the Board.

(9) To prepare comprehensive policies and procedures for guidance and operation of the Authority, to be approved by the Board.

(10) To propose legislation in furtherance of Authority needs and goals.

(11) To initiate, develop and sustain a public information program to assure full public understanding of the purposes and programs of the Authority.

(12) To prepare reports on programs, projects and functions of the Authority, including financial reports.

(13) To establish and maintain Authority records including records of all bids, contracts and project descriptions, which shall be kept in good order for a minimum of six calendar years after the dates of completion of such contracts or projects.

(14) To submit an annual report on the activities of the Authority to the Legislature no later than 15 days after the last day of each fiscal year; PROVIDED, that the report shall include an accounting of all funds received by the Authority during the previous fiscal year from any source whatsoever.

Source: PDC §10-4, 3/71; S.L. No. 1L-13-79 §1, 11/13/79; S.L. No. 6L-79-06 §2-112, 11/1/06

Note: §10-4(n) was added by D.L. No. 4L-157-78 §1, 11/15/78.

§2-105. Commissioner of Transportation. — The duties of the Commissioner of Transportation are the following:

(1) To direct the implementation of the programs, policies, projects and procedures of the Authority, as determined by the Board.

(2) To administer the staff and operations of the Authority.

(3) To maintain liaison among the Authority, the Board, the State Administration and others concerned with the objectives and programs of the Authority.

(4) To report to the Board at each regular meeting, and when requested, attend special meetings on the status, programs and development of the Authority, its programs and projects, its financial status, and its plans.

(5) To maintain close communication with the Chairman of the Board as to current status and activities of the Authority.

(6) To exercise supervision over all Authority property and funds.

(7) To employ and terminate staff personnel with approval of the Board, and to carry out all other appropriate functions regarding Authority personnel, pursuant to the State Public Service System, Title 9 Chapter 2.

(8) Subject to budgetary limitations, to authorize all expenditures of funds under Authority control, make contracts, acceptance, purchases and sales, with Board approval for such transactions in excess of five thousand dollars.

(9) To sign contracts in amounts of five hundred dollars or less, and sign jointly with the Chairman of the Board contracts in excess of five hundred dollars.

(10) To recommend to the Board programs and plans, budgets, policies and procedures with respect to programs, budget, and personnel of the Authority.

Source: PDC §10-5, 3/71; S.L. No. 2L-57-81 §31(3), 10/1/81; D.L. No. 4L-98-77 §3, 5/17/77; D.L. No. 4L-98-77 §4, 5/17/77

§2-106. Finances. —

(1) There is hereby authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Pohnpei Comprehensive Budget Act to defray compensation, the cost of equipments, operations and maintenance, and other expenses which may be incurred by the Authority. All sums herein authorized for appropriation shall be expended and administered by the Commissioner of Transportation solely for the purposes specified in this section.

(2) Compensation of Board members and the Commissioner shall be as determined in the State Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded by Pohnpei law, and the compensation for Authority employees shall be as determined in the Government Salary Conversion Act, Title 9 Chapter 4 Subchapter II, as amended or superseded by Pohnpei law. Officers and employees of the Authority shall be entitled to expenses and per diem at standard Pohnpei Government rates when engaged in the business of the Authority; PROVIDED that Pohnpei

Government officers and employees who serve on the Board shall not be entitled to compensation but shall be accorded administrative leave while engaged in such business.

Source: PDC §10-6, 3/71; D.L. No. 4L-53-76 §1, 12/6/76; S.L. No. 1L-71-86 §4-11, 4/1/86

Note: §10-6 was added by D.L. No. 3L-58-73 §25, 5/29/73.

CHAPTERS 3 – 5
[RESERVED]

CHAPTER 6 STATE ROADS

Section

6-101 Designation of Pohnpei State Road

6-102 Designation of causeway of Nanisou, U

§6-101. Designation of Pohnpei State Road. — The Pohnpei State Road shall be designated as follows:

(1) From Luhke to Dewennuh, from Dewennuh to Dipision and up to the Administration and Hospital, from the Hospital up to Constabulary, Agriculture Station and up to Dolonier. From Dolonier the road that goes toward Sokehs.

(2) Only one road from Dienpwel to the border of Sokehs. From Kitel to Kapikapi.

(3) From Kapikapi to Wapar, and from Wapar to Kepirohi there are two roads but the one toward the shore is the state road. From Kepirohi to Sekerensenpehn, from Sekerensenpehn to Lehdau. The road toward the shore is the state road. From Lehdau to Nankoapwoaremen. From Nankoapwoaremen to Luhke.

Source: PDC §10-200, 3/71

§6-102. Designation of causeway of Nanisou , U. – The causeway road of Nanisou, U to Dehpehk and Takaieu Islands in U is hereby designated as a public road.

Source: S.L. No. 5L-59-01 §1, 12/21/01

ROADS

CHAPTER 7 ROADWAY CONSTRUCTION

Section

7-101 Short title	7-105 Construction signs; direction of traffic
7-102 Definitions	7-106 Criminal and civil penalties
7-103 Minimum standards and conditions for construction within roadways	7-107 Authority to halt construction; authority to take corrective action
7-104 Permit required for construction within the roadway	7-108 Authority to delay issuance

§7-101. Short title. — This chapter is known and may be cited as the “Roadway Construction Act of 2000.”

Source: S.L. No. 5L-07-00 §1, 7/14/00

§7-102. Definitions. — As used in this chapter, unless the context clearly requires otherwise:

- (1) “Administrator” means the Administrator of the Office of Transportation and Infrastructure.
- (2) “Construction within a roadway” shall mean and include:
 - (a) Any new construction, maintenance or repair of any part of the right-of-way of a roadway as defined by 71 PC 1-101, inclusive of culverts, bridges, retaining walls, shoulders, setbacks, and drainage ditches;
 - (b) Any disturbance of the roadway for the emplacement, maintenance or repair of any water or sewer pipe, conduit, utility pole, electrical line or audio, video or communications cable, whether above or below ground;
 - (c) Operation, parking or standing within a roadway of any construction machinery; and
 - (d) Emplacement or storage within a roadway of any materials such as sand, coral, gravel, cement, concrete, asphalt, steel or lumber utilized or intended to be utilized in the construction process within the roadway.
- (3) “Person” means an individual, partnership, corporation, association, governmental subdivision or public or private organization of any character.

Source: S.L. No. 5L-07-00 §2, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-103. Minimum standards and conditions for construction within roadways. — The Administrator shall by regulation establish minimum standards and conditions regulating construction within all public roadways of the state of Pohnpei.

Source: S.L. No. 5L-07-00 §3, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-104. Permit required for construction within the roadway. — It shall be unlawful for any person to perform any type of construction within a roadway unless such construction is conducted under a road construction permit authorizing said construction. A road construction permit shall be attained in the following manner:

- (1) An application shall be filed with the Office of Transportation and Infrastructure on a form specified by the Administrator and approved by the Attorney General. Said form shall require information as to the person for which the construction shall be performed, the type and nature of construction, the place and duration of construction, the manner in which the roadway will be constructed or restored to its original or better condition, and the supervisor who will be responsible for overseeing the project and ensuring its conduct and completion in the manner prescribed in the permit.

(2) The Administrator shall review the application, and if he determines that the construction can be carried out to the standards and conditions established by regulation as provided in §7-103 within a reasonable time and in a safe manner, he shall notify the applicant that the applicant's request has been approved.

(3) Upon the payment by the applicant to the Office of Transportation and Infrastructure of a refundable bond of not less than \$500 as determined by the Administrator after a review of the scope of the work and the length of the project, the road construction permit shall be issued; PROVIDED that the Administrator, in his discretion and upon determining that the construction request is minor and will not disrupt passage on a roadway for more than three days, may reduce the bond requirement to an amount of not less than \$20.

(4) The permit so issued shall state the type, nature, and site for the road construction, the minimum standards and conditions of construction, the conditions of safety under which construction may be carried out pursuant to the permit, the person for whom the construction is being carried out, and the name of the supervising personnel. The permit shall also state a certain date that the permit shall expire; PROVIDED that the Administrator, upon request of the applicant and for good cause shown, may, at his discretion, extend the expiration date for such period as the Administrator shall so determine.

(5) Upon completion of the construction in the time and manner prescribed, and upon assuring the Administrator to his satisfaction that the roadway has been constructed or restored to its original or better condition, the bond required by Subsection (3) of this section shall be refunded to the permit holder; PROVIDED that the Administrator may by regulation prescribe that not more than twenty percent (20%) of the value of the bond may be retained and expended by the office strictly for the costs of general administration and inspection of construction projects undertaken under the authority of permits issued under this section. If the Administrator shall, following inspection, determine that the road has not been constructed or restored to its original or better condition, or if the Administrator shall determine that the construction was carried out in substantial violation of the terms of the permit, he may order that the bond be forfeited to the general fund of the Pohnpei Treasury, (except such percentage thereof as may be retained by the office pursuant to this subsection) or that the bond be held as security until such time as the conditions stated in the permit have been met and so notify the permit holder of his decision in writing.

Source: S.L. No. 5L-07-00 §4, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-105. Construction signs; direction of traffic. — In addition to the requirements of §7-104:

(1) Any person who shall engage in any construction activity on a public roadway shall erect and maintain signs near the site of such construction in such a manner as to give motor vehicles on such public roadway an adequate warning of the presence of the construction.

(2) In the event that such construction shall so disrupt traffic on a public roadway in such a manner that a single lane must be used by vehicles travelling in opposite directions, the persons so engaged in the construction activity shall provide for the direction of traffic through the construction site in a safe and responsible manner.

Source: S.L. No. 5L-07-00 §5, 7/14/00

§7-106. Criminal and civil penalties. —

(1) Any person who shall knowingly and willfully violate any provision of §§7-104 or 7-105, or of any term or condition of any permit issued thereunder, shall be guilty of an offense against the state of Pohnpei and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months or both such fine and imprisonment.

(2) In addition to such criminal penalties as prescribed by Subsection (1) of this section, any person who shall knowingly and willfully violate any provision of §§7-104 or 7-105, or of any term or condition of any permit issued thereunder, shall be civilly liable for twice the value of the expenses

incurred by or for the state in remedying the damage or removing the impediment to the roadway caused by or on behalf of said violator.

Source: S.L. No. 5L-07-00 §6, 7/14/00

§7-107. Authority to halt construction; authority to take corrective action. —

(1) In the event that the Administrator shall find that any person is engaged in any form of construction within a roadway without a permit as required by §7-104 or in violation of the terms and conditions of a permit issued thereunder, the Administrator shall have the authority to order an immediate halt of such construction and/or order the offender to safely remove any or all impediments from the roadway emplaced thereon by or on behalf of the offending person.

(2) If the offending person shall not comply with the orders of the Administrator pursuant to Subsection (1) of this section, or if he shall fail to comply with such orders to the satisfaction of the Administrator or if he cannot be found within a reasonable time, the Administrator may otherwise cause the impediments removed and the roadway restored to a safe condition in such manner as he deems necessary.

Source: S.L. No. 5L-07-00 §7, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

§7-108. Authority to delay issuance. — Upon a finding that an applicant or that the source of funding for an applicant for a road construction permit under §7-104 is a government entity that has previously financed construction that does not meet the standards and conditions for construction within a roadway established by regulation issued by the Administrator of the Office of Transportation and Infrastructure pursuant to §7-103, the Administrator may, in his discretion and following consultation with the chief executive of the local government of the jurisdiction wherein the new construction is to occur, delay the issuance of a roadway construction permit for new construction financed by that applicant or financed by that government entity until such time as the deficiencies in the construction so previously undertaken have been corrected. In the event that the decision to delay the issuance of a new permit is due to the fact that the source of funding is a government entity, the authority to delay the issuance of the new permit may be exercised, whether the previous construction that so caused the deficiencies occurred before or after the issuance of minimum standards and conditions now in effect.

Source: S.L. No. 5L-07-00 §8, 7/14/00; S.L. No. 5L-14-00 §3-59, 10/1/00

**CHAPTERS 8 & 9
[RESERVED]**

ROADS

**CHAPTER 10
ROAD FINANCES**

Section

10-101 Road maintenance fund: authorization for appropriation; administration

10-102 Circumferential road fund: authorization for appropriation; administration

§10-101. Road maintenance fund: authorization for appropriation; administration. —

(1) There is hereby established a road maintenance fund for the maintenance of roads in this state.

(2) There is authorized for appropriation from the general fund of Pohnpei or such fund in the Treasury into which capital account monies of the Compact of Free Association are deposited a sum or sums to be determined and allocated annually in the Comprehensive Budget Act to provide monies for the fund established by Subsection (1) of this section.

(3) Sums appropriated to the fund established by Subsection (1) of this section may be administered and expended by the Governor solely for the purpose stated in Subsection (1) of this section and allocation appropriated. The Governor shall report annually to the Legislature within 30 days following the close of the fiscal year on all activities and expenditures relative to the fund for the previous fiscal year. Sums appropriated to the fund shall remain available until fully expended.

Source: D.L. No. 4L-192-79 §§1 – 3, 8/9/79; S.L. No. 1L-153-87 §1, 7/14/87

§10-102. Circumferential road fund: authorization for appropriation; administration. —

(1) There is hereby established a fund for the construction of the Pohnpei Island Circumferential Road for the purpose of assisting in the financing of the completion of the circumferential road around Pohnpei.

(2) There is authorized for appropriation from the general fund of Pohnpei a sum or sums to be determined annually in the Comprehensive Budget Act to provide monies for the fund established by Subsection (1) of this section.

(3) Sums appropriated to the fund established by Subsection (1) of this section shall be administered and expended by the Governor solely for the purposes specified in this section; PROVIDED the Governor may:

(a) Obligate for construction expenses sums from the fund only pursuant to the presentation in advance of plans supported by engineering designs, specifications, and cost allocations for such construction; and

(b) Set aside and obligate, at his discretion, sums from the fund to secure the financing for construction of the circumferential road from other sources of financial assistance.

(4) The Governor shall report to the Legislature on or before October 15 each year on all matters concerning the expenditure of the fund for the previous fiscal year. Any sums appropriated to the fund shall remain available until fully expended.

Source: D.L. No. 4L-198-79 §§1 – 4, 8/9/79

ROADS

(Next page is Title 34 divider)