

SIXTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA
CONGRESSIONAL BILL NO. 6-69, C.D.1, C.D.2,C.D.3

PUBLIC LAW 6-111

AN ACT

To further amend Title 53 of the Code of the Federated States of Micronesia, as amended by Public Law No. 5-120, by repealing chapter 5 of Public Law No. 2-74, codified as chapter 10 of title 53 of the Code of the Federated States of Micronesia, and by adding a new chapter 10 for the purpose of strictly defining fiduciary duties, responsibilities and qualifications under the Social Security Act, and expanding the scope of authorized investments that may be made by the Social Security Board with the assets of the Social Security Retirement Fund, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Repeal and Reenactment. Chapter 10 of title 53 of
2 the Code of the Federated States of Micronesia is hereby repealed
3 in its entirety and a new chapter 10 is hereby enacted to read as
4 follows:

5 "CHAPTER 10

6 RETIREMENT FUND

7 Section 1001. Establishment of Fund. There shall be
8 established a Federated States of Micronesia Social
9 Security Retirement Fund, hereinafter referred to as the
10 'Fund,' separate and apart from all public monies or funds
11 of the Federated States of Micronesia, which shall be
12 administered by the Social Security Administration
13 exclusively for the purposes of this subtitle.

14 Section 1002. Investments.

15 (1) Investment of Fund.

16 (a) The Social Security Retirement Fund shall
17 consist of funds or assets transferred from the Trust
18 Territory Social Security Retirement Fund, employee's
19 contributions, employer's contributions, penalties and
20 interest collected, gifts, donations, and fund transfers
21 authorized by law, plus interest, dividends and other
22 earnings from the investments of the Fund, less benefit

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1 payments and expenses incurred in the operation of the
2 Social Security System, hereinafter referred to as the
3 'System.'

4 (b) The reserves of the Fund in excess of the
5 requirements for the current operations shall be invested
6 and reinvested by or under the authority of the Board. The
7 Board shall invest its reserves to ensure the greatest
8 return commensurate with sound financial policies.

9 (c) The Board shall have the full power to
10 manage the investments as in its considered judgment seems
11 most appropriate to the requirements and objectives of the
12 system, including but not limited to the power to hold,
13 sell, purchase, convey, assign, transfer, dispose of,
14 lease, subdivide, or partition any asset held or proceeds
15 thereof; to execute or cause to be executed relevant
16 documents; to enter into protective agreements, execute
17 proxies, or grant consent; and to do all other things
18 necessary or appropriate to its position as an owner or
19 creditor.

20 (d) All proceeds and income from investments, of
21 whatever nature, shall be credited to the account of the
22 Fund. Transactions in marketable securities shall be
23 carried out at the prevailing market prices.

24 (e) The Board may commingle securities and
25 monies, subject to the crediting of receipts and earnings

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1 and charging of payments to the appropriate accounts
2 established by this act.

3 (f) No member of the Board and no employee of
4 the Board, nor anyone in the immediate family of such
5 member or employee, shall have any direct or indirect
6 interest in the income, gains or profits of any investments
7 made by the Board, nor shall any such person receive any
8 pay or emolument for services in connection with any
9 investments made by the Board. Participation in the Fund
10 under the terms of this act shall not be construed to
11 include interest, pay or emolument within the meaning of
12 this subsection.

13 (g) No member, employee or agent of the Board,
14 nor any person in the immediate family of such member,
15 employee or agent, shall become an endorser or surety or in
16 any manner an obligator of investments made by the Fund,
17 nor shall any member, employee or agent be held liable for
18 actions taken in good faith in the performance of his
19 duties.

20 (h) Investments may be held as physical
21 securities in either bearer form, or registered in the name
22 of the Fund or the nominee of the custodian. Non-physical
23 securities may be held on book entry at a Depository
24 Institution selected by the custodian, or one of the twelve
25 U.S. Federal Reserve Banks.

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1 (i) Due bills may be accepted from brokers
2 against payment for securities purchased, pending delivery
3 within a reasonable period of time certificates
4 representing such investments.

5 (2) Fund custodian.

6 (a) The Board shall engage one or more fund
7 custodians to assume responsibility for the physical
8 possession of the Fund assets or evidences of assets. The
9 custodian shall submit such reports, accountings and other
10 information in such form and at such time as requested by
11 the Board. The custodian shall hold all assets for the
12 account of the Fund, and shall act only upon the
13 instructions of the Administrator, as so authorized by the
14 Board.

15 (b) No Fund custodian shall be engaged unless it:

16 (i) Is a bank duly chartered to transact
17 business in the Federated States of Micronesia or is a
18 United States Bank or Trust Company regulated by the
19 Federal Reserve Board, a state authority or the federal
20 comptroller of the currency as is appropriate;

21 (ii) Has a net worth in excess of
22 \$10,000,000;

23 (iii) Has the capacity to clear securities
24 transactions through the Depository Trust Company I.D.
25 System; and

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1 (iv) Has at least 10 years experience as a
2 custodian of financial assets.

3 (c) The contract between the Board and the Fund
4 custodian shall be of no specific duration and is voidable
5 at any time by either party after 30 days notice is given.

6 (d) The costs of services under this subsection
7 shall be paid out of the Fund.

8 (3) Investment consultant.

9 (a) No person, firm or corporation shall be
10 engaged as investment consultant unless:

11 (i) The person, firm or corporation is
12 actively involved in the performance measurement investment
13 consulting business, and its principals in aggregate either
14 possess prerequisite degrees in finance, accounting or
15 economics or have independent professional certifications;

16 (ii) The person, firm or corporation, or
17 its principals in aggregate, have a minimum of 10 full
18 years of experience providing investment consulting
19 services; and

20 (iii) The person, firm or corporation
21 certifies in writing that it provides investment consulting
22 services to clients whose assets total at least
23 \$500,000,000.

24 (b) The Board shall engage an investment
25 consultant to provide ongoing assistance to the Board in:

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1 (i) The supervision, retention and
2 termination of the investment advisors/managers, the
3 maintenance and updating of the dynamic investment policy,
4 asset allocation decisions, and any other matters involving
5 the investment of the assets which the Board may desire;

6 (ii) Providing quarterly reports of the
7 performance of the investment advisors/managers which must
8 provide time weighted rates of return for a minimum of 5
9 years in each asset category;

10 (iii) Providing comparisons of the Fund's
11 performance with that of the markets as well as comparisons
12 with other investment advisors/managers managing similar
13 types of assets; and

14 (iv) Providing at least four reports
15 annually in person.

16 (c) The Administrator shall at all times maintain
17 a dialogue with the investment consultant in order to
18 facilitate efficient management.

19 (d) The contract between the Board and the
20 investment consultant shall be of no specific duration and
21 is voidable at any given time by either party after 30 days
22 notice is given.

23 (e) All costs incurred for the services provided
24 under this subsection shall be paid out of the Fund.

25 (4) Investment advisor/manager.

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1 (a) The Board shall engage one or more investment
2 advisors/managers to assume the responsibility and direction
3 for the purchase and sale decisions of all assets or
4 evidences of assets charged to them.

5 (b) No person, firm or corporation shall be
6 engaged as investment advisor/manager unless:

7 (i) The person, firm or corporation is a
8 registered investment advisor/manager with the U.S.
9 Securities and Exchange Commission in accordance with the
10 Investment Advisors Act of 1940;

11 (ii) The principal business of the person,
12 firm or corporation is of rendering investment management
13 supervisor services;

14 (iii) The person, firm or corporation has been
15 in business for a minimum of 10 full years as an active
16 advisor/manager of security portfolios; and

17 (iv) The person, firm or corporation
18 certifies in writing that the assets under its direct
19 investment supervision are in excess of \$500,000,000.

20 (c) The Administrator shall at all times maintain
21 a dialogue with the investment advisors/managers in order to
22 facilitate efficient management and timely investment
23 actions.

24 (d) The contract between the Board and the
25 investment advisors/managers shall be of no specific

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1 duration and is voidable at any time by either party after 30
2 days notice is given.

3 (e) All costs incurred for the services provided
4 under this subsection shall be paid out of the Fund.

5 (5) Authorized investments. Investments may be made in:

6 (a) Government obligations. Obligations issued or
7 guaranteed as to principal and interest by the National
8 Government and/or the State governments of the Federated
9 States of Micronesia or by the Government of the United
10 States, PROVIDED that the principal and interest on each
11 obligation are payable in the currency of the United States.

12 (b) Corporate obligations and mortgage backed
13 securities. Obligations of any public or private entity or
14 corporation created or existing under the laws of the
15 Federated States of Micronesia or of the United States or any
16 state, territory or commonwealth thereof, or obligations of
17 any other government or economic community which are payable
18 in United States dollars, or pass through and other mortgage
19 backed securities, PROVIDED that:

20 (i) The obligation is of an agency of the
21 United States Government, or

22 (ii) The obligation is of an agency of the
23 Federated States of Micronesia Government, or

24 (iii) The obligation is rated in one of the
25 three highest categories by two nationally recognized rating

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1 agencies; and

2 (iv) No investment under this heading exceeds
3 ten percent of the market value of the Fund or ten percent of
4 the outstanding value of the issue at the time of purchase.

5 (c) Preferred and common stocks. Shares of preferred
6 or common stocks of any corporation created or existing under
7 the laws of the Federated States of Micronesia or under the laws
8 of the United States or any state, territory or commonwealth
9 thereof, PROVIDED THAT:

10 (i) The purchase of such shares shall be
11 considered reasonable and prudent by the investment advisor at
12 the time of purchase;

13 (ii) Not more than five percent of the market
14 value of the Fund shall be invested in the stock of any one
15 corporation; and

16 (iii) Not more than ten percent of the market
17 value of the Fund shall be invested in any one industry
18 group.

19 (d) Insurance company obligations. Contracts and
20 agreements supplemental thereto providing for participation in
21 one or more accounts of a life insurance company authorized to
22 do business in the Federated States of Micronesia or in any
23 state, territory or commonwealth of the United States,
24 PROVIDED that the total market value of these investments at no
25 time shall exceed ten percent of the total market value of all

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1 investment of the Fund.

2 Section 2. Severability. If any provision of this act or
3 application thereof to any individual or circumstance is held invalid, the
4 invalidity does not effect other provisions or applications of the act
5 which can be given effect without the invalid provision or application, and
6 to this end the provisions of this act are severable.

7 Section 3. Effective date. This act shall become law upon approval
8 by the President of the Federated States of Micronesia or upon its becoming
9 law without such approval.

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Signed by President John R. Haglelgam

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On January 8, 1991

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