KSC, TITLE 7. AGENCIES & GOV'T FINANCED ENTERPRISES

Chapter 12. The Utility Authority

Section 7.1201. Authority established.
There is hereby established a public Authority to be known as the Kosrae Utilities Authority, referred to in this Chapter as the "Authority".

Background
Added by State Law 5-38.

Section 7.1202. Responsibilities, duties and powers of the Authority.
The Authority is vested with the following powers, duties and responsibilities:

(1) To provide to the public electric power, referred to in this chapter as "Authority services".

(2) To operate and manage the State's electric power, on the basis of commercially accepted practices, treating all users of Authority services on equitable terms in accordance with its published fees and requiring all users to pay for services rendered.

(3) To expand and improve upon services offered to the public, and, where practicable, construct and operate new facilities to meet the foreseeable demand for Authority services.

(4) To publish and implement a structure of rates for services rendered by the Authority. Such rates are to be determined by the Board of Directors, and calculated based on revenues and subsidies from all sources, to ensure that, to the extent practicable, adequate and equitable charges are imposed and that the fee structure promotes the wise and efficient use of Authority services.
(5) To acquire and maintain from the revenues and subsidies received by the Authority, a prudent contingency reserve [or] program of insurance, including liability coverage, for all personnel, facilities, and equipment controlled by the Authority.

(6) To invest all surplus revenues of the Authority in the expansion and improvement of Authority service.

(7) To, upon reasonable terms, enter any private or public land, house, or building to which Authority services have been, are, or will be supplied or through which utility equipment or lines are or will be located in order to survey, take readings, make installations or fittings, remove meters or other instruments for measuring the quantity of service supplies; to dig out and remove earth, stone, soil, sand and gravel whatsoever for the construction, maintenance or alteration of any equipment, or line or any part thereof; to cut and remove any tree or any branch of a tree growing on such lands which may in any way affect or interfere with the operation of Authority services or equipment; to open or break up any road; and to erect and maintain posts, staywires, poles or pillars in or upon any land; or for any other purpose in connection with the continued provision of Authority services as provided for by this act. In the exercise of the power to enter onto private or public land as herein provided, the Authority is not deemed to acquire any right other than that of a user only in or over the soil of any land. Where such action becomes a nuisance or causes the loss of value to the owner of the land, such loss is at the expense of the Authority, which gives reasonable compensation.

Background
Added by State Law 5-38.

Section 7.1203. Legal characteristics and capacity of the Authority.
In performing the responsibilities and duties authorized by this act or other laws of the State, the Authority holds the capacity to exercise all powers reasonably necessary to discharge its duties and responsibilities, including, but not limited to, the following:

(1) To adopt, alter, and use an official seal.

(2) To adopt and amend bylaws and other rules, regulations [and] directives governing all aspects and duties granted to or imposed upon it by law. No bylaw, rule or regulation, other than those covering the internal operation of the Authority, is adopted without a public hearing.

(3) To set interest charges or other monetary penalties, to require security deposits and create procedures for termination of service, and to establish such other procedures and policies to ensure timely payment and collection of Authority bills.

(4) To sue and be sued as an entity; provided that satisfaction of judgments or the settlement of claims on tort actions against the Authority may only be paid out of contingency reserves or insurance held by the Authority and not out of the other assets or operating capital of the Authority, and for these purposes the doctrine of
[sovereign] immunity is recognized and maintained for this public Authority to the extent not expressly waived by State law.

(5) To acquire, in any lawful manner, real, personal, or mixed property, either tangible or intangible; to hold, maintain, use, and operate such property; and to sell, lease, or otherwise dispose of such property.

(6) To acquire, in any lawful manner and with the consent of the entity, the business, property, assets, and liabilities of any public entity of the State to the extent it provides electric power.

(7) To borrow or raise any sum or sums of money and to issue bonds on such security and upon such terms as may from time to time be deemed necessary for the expansion and improvement of Authority services.

(8) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as the Authority deems appropriate.

**Background**
Added by State Law 5-38.

**Section 7.1204. Debts and obligations of the Authority.**
Unless otherwise expressly provided by law, the debts and obligations of the Authority are not the debts or obligations of the Kosrae State Government, and the Kosrae State Government is not responsible for any such debts or obligations.

**Background**
Added by State Law 5-38.

**Section 7.1205. Tax liability.**
The Authority exists and operates solely for the benefit of the public and is exempt from any taxes or assessments on any of its property, operations or activities imposed by the Kosrae State Government or local governments or, to the extent allowable, the Government of the Federated States of Micronesia. Nothing herein may be deemed to exempt employees and independent contractors of the Authority from tax liability for services rendered to the Authority, and the Authority is liable for employer's social security contributions in the manner provided by law.

**Background**
Added by State Law 5-38.

**Section 7.1206. Composition of the Board; term.**
The Authority is governed by a Board of five Directors. The Board is composed of four Directors appointed by the Governor with the advice and consent of the Legislature, and, ex-officio, the Director of the Department of Public Works. An appointed Director serves for a term of four years, subject to reappointment, and until his successor has been appointed and qualifies. Initially, the Governor appoints two Directors to two year terms and two Directors to four year terms. A vacancy is filled for the remainder of the term for the vacated position. The General Manager serves pursuant to the provisions of Section 7.1209.
Section 7.1207. Meetings of the Board.
Within 15 days after the confirmation of the [initial] Board, the Governor calls an organizational meeting for the purpose of electing its officers. The Board meets and holds at least one public meeting each calendar quarter and other public meetings as it may deem necessary for the transaction of its general business.

Section 7.1208. Organization of the Board; quorum; compensation and expenses.
Pursuant to its bylaws, the Board organizes by electing one of its members as Chairman and another as Vice-Chairman. The Board also designates from among its members a Secretary to keep the minutes and records of the Board. Any three members of the Board constitute a quorum, and a concurrence of three members is necessary for any official action taken by the Board. No vacancy in the membership of the Board impairs the right of a quorum to exercise all of the rights and perform all of the duties of the Board. Directors are compensated at established rates when actually attending meetings of the Board, except the Director of the Department of Public Works who does not receive additional compensation. All Directors receive travel expenses and per diem at Kosrae State Government rates when these amounts would be payable to Kosrae State Government employees in the same circumstances.

Section 7.1209. Appointment of General Manager; removal.
The Board appoints a General Manager and fixes his compensation. The General Manager has full charge and control of the operation and maintenance of all the Authority facilities and other real and personal property controlled by the Authority, and of construction of any facilities, and necessary work on vehicles, vessels and equipment controlled by or required to be rebuilt or repaired by the Authority. The Board may remove the General Manager for good cause upon a majority vote. During any period when the position of General Manager is vacant, the position is temporarily filled from within the organization pursuant to its rules and regulations.

Section 7.1210. Duties of the General Manager.
The General Manager of the Authority has the following duties:

(1) To ensure that all fees and bills imposed by the Authority are charged and collected.
(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 on the needs of the Authority.

(4) To approve demands for payment of obligations for the purposes and within amounts authorized by the Board.

(5) To prepare or have prepared all plans and specifications for the construction and repair of facilities, vehicles, vessels, and equipment operated by the Authority.

(6) To manage the daily business of the Authority; to select and appoint the employees of the Authority except as otherwise provided in this act; to contract with independent contractors; and to plan, organize, coordinate and control the services of such employees and contractors in the exercise of the powers of the Authority under the general direction of the Board.

(7) To publish within 60 days after the end of each fiscal year, in the manner required by the Board, a complete 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.

(8) To perform such other and additional duties as the Board may require.

**Background**
Added by State Law 5-38.

**Section 7.1211. Appointment of comptroller and general counsel; duties of each.**
The General Manager appoints a comptroller and a general counsel, both of whom report to the General Manager. The comptroller and the general counsel may be terminated for good cause by the General Manager. The comptroller and the general counsel are compensated at rates determined by the Board. Such officers may be full-time employees of the Authority, shared with the Kosrae State Government, or be placed on retainer from the private sector. The General Manager may appoint one or more assistants to any such office.

(1) The comptroller has custody of all moneys of the Authority and pays out such money only in accordance with the direction of the Board and as provided in the annual budget of the Authority. The Board appoints an agent as its trustee for payment of bonds issued by it and for such related purposes as the Board may provide.

(2) The general counsel advises the Board and the General Manager in all legal matters to which the Authority is a party or in which the Authority is legally interested and may represent the Authority.

**Background**
Added by State Law 5-38.

**Section 7.1212. Accounting and reporting.**
The Board adopts and maintains a system of accounting which is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted requires:

(1) That the Board employ a firm of independent certified public accountants who examine and report upon to the Board, at least annually, all financial records and accounts maintained by the Authority, and that copies of such reports are furnished to the Governor and the Legislature, and

(2) That the Board present to the Governor and the Legislature an annual report on the affairs of the Authority within 60 days after the end of each fiscal year and, when requested by the Governor or the Legislature, present special reports within 30 days after the end of each intervening quarter.

Background
Added by State Law 5-38.

In consultation with the Board, the General Manager prepares in advance of each fiscal year an annual budget for the Authority, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Authority uses the same fiscal calendar as the Kosrae State Government. The budget indicates the operational, capital, and maintenance requirements of the Authority that will be met with the anticipated revenues of the Authority, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Background
Added by State Law 5-38.

Section 7.1214. Supplemental budget requests.
To the extent that the Board deems it necessary and advisable, the Authority is authorized to seek grants and loans from the Legislature and, to the extent approved by the Governor, grants from sources outside of the State, of such funds as are necessary to supplement revenues to provide for the operation, maintenance, and expansion of Authority services in the State.

Background
Added by State Law 5-38.

Section 7.1215. Procurement Manual of Administration.
The Board adopts procurement regulations and establishes a Manual of Administration for the Authority including rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Authority. Employees of the Authority are eligible to participate in any health insurance plan, life insurance plan, retirement fund, and workmen's compensation fund available to Kosrae State Government employees. The Authority contributes to such programs as determined by the governing authorities thereof.

Background
Section 7.1216. Transition.
Following organization of the Authority, the State transfers to the Authority all electric power facilities and grounds, along with all equipment and supplies therefor, on terms mutually agreed by the State and the Authority. All deeds, bonds, agreements, instruments and working arrangements existing immediately before the effective date of this act which affect any undertaking transferred hereby will continue in full force and effect against or in favor of the Authority. Any proceedings or cause of action pending or existing immediately before the effective date of this act by or against the State or any person acting on behalf of the State which pertains to any undertaking transferred hereby may be continued or enforced by or against the Authority. All transfers are accomplished without disruption of utility services which will continue at levels at least equal to those provided at the time of the transfer. Title 10 of the Kosrae Code will apply to the Kosrae Utilities Authority until Section 7.1212 of this Chapter is fully complied with as certified by the Authority firm of independent certified public accountants.

Background
Added by State Law 5-38.