

TITLE 20

PUBLIC BROADCASTING

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CHAPTER 1 PUBLIC BROADCASTING CORPORATION

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§1-101. Corporation established. — There is hereby established in and for Pohnpei a public corporation to be known as the Pohnpei Public Broadcasting Corporation, hereinafter referred to as the “Corporation.”

Source: S.L. No. 3L-42-93 §1, 8/15/93

§1-102. Responsibilities and duties of the Corporation. — The Corporation is vested with the following duties and responsibilities:

(1) To provide audio and visual broadcasting services to the people of Pohnpei through the operation of a system of publicly owned broadcast stations and studios.

(2) To broadcast thereon public information, news, and programs of an educational, cultural, and entertaining nature.

(3) To develop audio and visual programs for use in Pohnpei and for sale or use abroad.

(4) To develop, in conjunction with the Pohnpei Department of Education, the College of Micronesia-FSM, and other educational agencies and institutions, instructional materials of an audio or visual format for use in the schools of Pohnpei.

(5) To develop, in conjunction with the Pohnpei Office of Economic Affairs and the Division of Personnel, Labor and Manpower Development, instructional materials of an audio or visual format to enhance the technical, business, and professional skills of the manpower of Pohnpei.

(6) To develop, in conjunction with the Department of Health Services, instructional materials of an audio or visual format for the improvement of Health Services personnel and promotion of public health and hygiene among the people of Pohnpei.

(7) To expand and improve upon broadcast services offered at the public broadcast stations and studios controlled by the Corporation, and, where practicable and necessary, construct and operate new broadcast facilities and repeater stations in densely populated or remote areas that are now beyond ready access to existing public broadcast services.

(8) To develop, where practical, the use of satellite technology in the receipt and transmission of information and programs.

(9) To attain financing for the Corporation from public sources and private donations and by the charging of reasonable fees for the use of its services; PROVIDED that emergency and public interest announcements, particularly funeral announcements, are exempted from such fees.

(10) To acquire and maintain from the revenues and grants received by the Corporation a program of liability insurance on all facilities and equipment controlled by the Corporation and workers' compensation insurance on all personnel under the management or supervision of the Corporation; PROVIDED that if such insurance is not available or is prohibitively expensive, as determined by the Board of Directors of the Corporation with concurrence of the Governor, then the Corporation shall establish and maintain a special fund to satisfy judgments or settlements on tort claims brought against the Corporation for its operations under this chapter.

(11) To invest all surplus revenues of the Corporation in the expansion and improvement of broadcasting services in Pohnpei.

Source: S.L. No. 3L-42-93 §2, 8/15/93; S.L. No. 5L-14-00 §3-5, 10/1/00; S.L. No. 7L-20-08 §12, 11/26/08

§1-103. Legal characteristics and capacity of the Corporation. — In performing the responsibilities and duties authorized by this chapter and other laws of Pohnpei, the Corporation shall have the characteristics of a public corporation and the capacity to exercise all powers normally exercised by a public corporation, including, but not limited to, the following:

(1) To adopt, alter, and use a corporate seal;

(2) To adopt and amend bylaws governing the conduct of its business and the exercise of its powers;

(3) To sue and be sued in its corporate name; PROVIDED that satisfaction of judgments or the settlement of claims on tort actions against the Corporation may only be paid out of insurance held by the Corporation or the special fund created by the Corporation pursuant to §1-102(10), and not out of the other assets or operating capital of the Corporation, and for these purposes the doctrine of sovereign immunity is maintained for this public corporation to the extent not expressly waived by Pohnpei public law; PROVIDED FURTHER that nothing in this subsection shall prevent the Pohnpei Legislature from making direct appropriations into the special fund for the purpose of assisting the Corporation in the satisfaction of judgments on such tort actions or settlement of tort claims brought against the Corporation;

(4) To acquire, in any lawful manner, real, personal or mixed property, either tangible or intangible; to develop and copyright its own materials; to hold, maintain, use, and operate such property; to sell, lease or otherwise dispose of such property; and to attain and hold all broadcast permits and licenses required by law;

(5) To acquire and take over, in any lawful manner, the business, property, assets, and liabilities of any public entity of Pohnpei to the extent of its provision of public broadcasting services;

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

(7) To retain and terminate the services of employees, agents, attorneys, auditors, and independent contractors upon such terms and conditions as the Corporation deems appropriate; and

(8) To do all such things as may be incidental to or conducive to the attainment of the responsibilities and duties of the Corporation.

Source: S.L. No. 3L-42-93 §3, 8/15/93

§1-104. Debts and obligations of the Corporation. — Unless otherwise expressly provided by law, the debts and obligations of the Corporation shall not be the debts or obligations of the Pohnpei Government, nor shall the Pohnpei Government be responsible for any such debts or obligations.

Source: S.L. No. 3L-42-93 §4, 8/15/93

§1-105. Tax liability. — The Corporation shall exist and operate solely for the benefit of the public and shall be exempt from any taxes or assessments on any of its property, operations, or activities imposed by the Pohnpei Government or local governments and, to the extent allowable, the government of the Federated States of Micronesia. Nothing herein shall be deemed to exempt employees and independent contractors of the Corporation from tax liability for services rendered to the Corporation, and the Corporation shall be liable for employers' contributions to existing social security systems in the manner provided by law.

Source: S.L. No. 3L-42-93 §5, 8/15/93

§1-106. Composition of the Board; vacancies. — All powers vested in the Corporation shall be exercised by the Board, which shall consist of seven members, called directors, who shall be appointed by the Governor with the advice and consent of the Pohnpei Legislature. Persons so appointed shall hold membership on the Board for a period of two years, subject to reappointment, and until their successors have been appointed and qualified. 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 director whose vacancy is being filled.

Source: S.L. No. 3L-42-93 §6, 8/15/93

§1-107. Meetings of the Board. — Within 15 days after the appointment and approval 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 meet once a month and 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.

Source: S.L. No. 3L-42-93 §7, 8/15/93

§1-108. 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. The directors of the Corporation shall be entitled to reimbursement for actual expenses incurred in the performance of their official duties, upon approval of such expenses by the Board. In addition, directors shall be compensated at rates established by the Government Officers' Salary Act, Title 9 Chapter 4 Subchapter I, as amended or superseded, when actually performing the functions of the Board, at the direction of the Chairman; PROVIDED that officers and employees of the Pohnpei Government and other cooperating entities shall instead receive their regular salaries in lieu of the compensation herein provided.

Source: S.L. No. 3L-42-93 §8, 8/15/93; S.L. No. 4L-25-96 §10, 7/1/97

§1-109. Appointment of a Commissioner of Public Broadcasting; duties. — The Board shall appoint a Commissioner of Public Broadcasting, hereinafter referred to as “Commissioner,” who shall be its chief executive officer and shall fix his compensation. The Commissioner shall have full charge and control of the operation and maintenance of all broadcasting facilities and other real and personal property controlled by the Corporation, of construction of any facilities, and of necessary work on vehicles and equipment controlled by or required to be rebuilt or repaired by the Corporation.

Source: S.L. No. 3L-42-93 §9, 8/15/93

§1-110. Powers of the Commissioner. — The Commissioner of the Corporation shall have the following powers:

(1) To ensure that all fees and royalties imposed by the Corporation are charged and collected and that the conditions of all required licenses and permits are maintained;

(2) To submit a general report to the Board on the affairs of the Corporation;

(3) To keep the Board advised on the needs of the Corporation;

(4) To approve demand 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 facilities, vehicles, and equipment operated by the Corporation;

(6) To devote his entire working time to the business of the Corporation; to select and appoint the employees of the Corporation 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 Corporation 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 Corporation, to contract, under the general direction and approval of the Board, 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 Corporation 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, non-voting member of the Board.

Source: S.L. No. 3L-42-93 §10, 8/15/93

§1-111. Appointment of treasurer and general counsel; duties of each. — The Board shall also appoint a treasurer 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 Board. Such officers may be full-time employees of the Corporation, shared with Pohnpei Government agencies, or be placed on retainer from the private sector. The Board may appoint one or more assistants to any such office.

(1) The treasurer shall have custody of all monies of the Corporation and shall pay out such money only in accordance with the direction of the Board and as provided in the annual budget of the Corporation. The Board shall appoint 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 shall advise the Board and the Commissioner in all legal matters to which the Corporation is a party or in which the Corporation is legally interested and may represent the Corporation before the Congress of the Federated States of Micronesia, the Pohnpei Legislature, boards and governmental agencies of Pohnpei, the Federated States of Micronesia, and other governments and international organizations.

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

and it shall provide payment of all legal services rendered other than those provided without cost 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 Corporation. Such approval may be conclusively evidenced by the signature of the general counsel thereon.

Source: S.L. No. 3L-42-93 §11, 8/15/93

§1-112. Contract-letting by the Board. — Unless the Corporation by its own procedures or as a requirement for receiving funds is held to more restrictive procurement requirements, the purchase of all supplies and materials and the construction of all works, when the expenditure exceeds \$2,500, shall be by contract let 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.

(1) 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.

(2) In case of major public calamity, or whenever it is in the interest of public safety or necessary to keep public broadcasting services operational, the Board may determine that the public interest and necessity demand the immediate expenditure of funds to keep the public broadcasting services operational 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.

(3) No director 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 director owns less than five percent (5%) of the entire capital stock or in which he does not hold any office or employment. The Board shall establish procedures for the timely verification of this restriction by its general counsel.

Source: S.L. No. 3L-42-93 §12, 8/15/93

§1-113. Accounting and reporting. — The Board shall adopt and maintain a system of accounting that is in accordance with generally accepted accounting principles applicable to public corporations. The system adopted shall require that:

(1) The Board 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 Corporation, copies of any such reports to be furnished to the Governor and the Pohnpei Legislature; and

(2) The Board report to the Governor and the Pohnpei Legislature on the affairs of the Corporation. 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.

Source: S.L. No. 3L-42-93 §13, 8/15/93

§1-114. Budget preparation. — The Commissioner shall prepare, in advance of each fiscal year, under the supervision of the Board, an annual budget for the Corporation, taking into consideration anticipated capital and operational expenditures and anticipated revenues. The Corporation shall use the same fiscal calendar as that of the Pohnpei Government. The budget shall indicate the operational, capital, and maintenance requirements of the Corporation that will be met with the anticipated revenues of the Corporation, and such essential requirements as cannot be met without increase in the rate of revenues or outside financial assistance.

Source: S.L. No. 3L-42-93 §14, 8/15/93

§1-115. Supplemental budget requests. — To the extent that the Corporation deems it necessary and advisable, the Corporation is authorized to seek appropriations from the Pohnpei Legislature and, to the extent approved by the Governor, grants from sources outside of Pohnpei, of such funds as are necessary to supplement revenues to provide for the operations, maintenance, and expansion of the public broadcasting services in Pohnpei.

Source: S.L. No. 3L-42-93 §15, 8/15/93

§1-116. Corporation finances; fund established; authorization for appropriation.

(1) There is hereby established in the Pohnpei Treasury, a fund that shall be known as the “Pohnpei Public Broadcasting Corporation Fund,” which shall be maintained separate and apart from other funds of the state, and independent records and accounts shall be maintained in connection therewith. A full accounting of all uses of this fund shall be included in the annual report of the Corporation as required by §1-113.

(2) All monies received by the Corporation from whatever sources derived shall be deposited in said fund.

(3) All expenditures, except as otherwise provided by law, shall be made from the fund herein established pursuant to appropriation by the Legislature.

(4) There is hereby authorized from the general fund of Pohnpei or such other fund as may be identified in the Comprehensive Budget Act a sum or sums to be determined annually in the Comprehensive Budget Act for the purpose of supplementing the assets of the Corporation’s fund established by this section.

Source: S.L. No. 3L-42-93 §16, 8/15/93; S.L. No. 7L-69-10 §1, 6/18/10

§1-117. Employee rights and responsibilities. — The Board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the Corporation. Employees of the Corporation 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 Corporation shall contribute to such programs on the basis of periodic billings as determined by the governing authorities thereof.

Source: S.L. No. 3L-42-93 §17, 8/15/93

§1-118. Employment preference. — The Board shall attempt to employ qualified legal residents of this jurisdiction if at all possible. However, the Board 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 public broadcasting services within Pohnpei.

Source: S.L. No. 3L-42-93 §18, 8/15/93

§1-119. Government assistance to the Corporation 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 the subsequent operation and maintenance of the public broadcasting services system, the Federated States of Micronesia, Pohnpei State or any agency or political subdivision of such, may, if the chief executive of each respective government or political subdivision determines that such project will benefit and further the public purposes of the respective government and be of advantage to them, and if the intended action is consistent with the laws of the respective government:

(1) Dedicate, sell, convey or lease interests in real or personal properties, rights or privileges that it may have to the Corporation;

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

(3) Do any and all things necessary to aid or cooperate in the planning or carrying out of the duties, powers, and obligations of the Corporation;

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

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

Source: S.L. No. 3L-42-93 §19, 8/15/93

§1-120. Role of the Public Affairs Officer. — The Public Affairs Officer within the Office of the Governor shall constantly and continuously monitor all activities of the Corporation and promptly take action or report to appropriate agencies any infraction of the Corporation in the conduct of its operations under this chapter, or of any deviation from the standards of broadcasting ethics commonly held in the professional and technical fields of the broadcasting service.

Source: S.L. No. 3L-42-93 §20, 8/15/93; S.L. No. 5L-14-00 §3-5, 10/1/00

§1-121. Annual performance surveys and reports. — The Corporation shall cause to be conducted, not less than once each year, a comprehensive survey of its services to the general public with respect to its general programs and of its services to directed audiences with respect to targeted programming, to determine audience reception of the Corporation's broadcasts and taped programs. In conducting the surveys, the Corporation shall use such questionnaires, interviews, and other techniques for gauging the effectiveness of its services as are utilized generally by public broadcasting entities. Following the annual survey, the Corporation shall prepare a draft report through which it shall measure the results of the survey to determine the effectiveness of its services and to determine areas which need modification or improvement. On or before April 15 each year, the Corporation shall submit copies of the draft report to the Public Affairs Officer and to such other concerned persons and entities as the Corporation deems appropriate. The Public Affairs Officer shall review the report as to its sufficiency, findings, and recommendations and shall prepare written comments with respect thereto. The Public Affairs Officer shall return the draft report with his written comments attached thereto to the Corporation not later than fifteen days following his receipt thereof from the Corporation. The Corporation shall review the comments of the Public Affairs Officer and such other persons and entities to which the draft report was submitted and shall prepare a final report which shall be filed with the Governor and the Legislature not later than June 15 of the same year.

Source: S.L. No. 3L-42-93 §21, 8/15/93; S.L. No. 5L-14-00 §3-5, 10/1/00

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