THE SENATE
SECOND OLBIIL ERA KELULAU
TENTH REGULAR SESSION
1987

SENATE BILL NO. 2-242, SD1

A BILL FOR AN ACT

OFFERED BY SENATOR John Sugiyama by request ET AL.

DATE INTRODUCED: April 14, 1987

SENATE ACTION
FIRST READING: April 14, 1987
REFERRED TO: W&M/HED
STANDING COMMITTEE REPORT NO: 2-174
DATE ADOPTED: April 29, 1987
SECOND READING: April 29, 1987
LEGAL FORMAT: Proper
REVIEW:
THIRD READING: April 30, 1987
April 30, 1987

HOUSE ACTION
FIRST READING: May 1, 1987
REFERRED TO: Ways and Means 76
STANDING COMMITTEE REPORT NO: May 7, 1987
DATE ADOPTED: May 7, 1987
SECOND READING: May 7, 1987
LEGAL FORMAT: Proper
REVIEW:
THIRD READING: May 8, 1987

CONFERENCE COMMITTEE ACTION
DATE:
COMMITTEE REPORT:
DATE PASSED:

[Signature]
Salvador Ngereklii
CLERK
A BILL FOR AN ACT


THE PEOPLE OF PALAU REPRESENTED IN THE OLBIIIL ERA KELILAU DO ENACT AS FOLLOWS:

PART I. PRELIMINARY

Section 1. Short Title. This Act shall be known and may be cited as the "Social Security Act of 1987".

Section 2. Purpose of this Act.

(1) The purpose of this Act is to effect economy and efficiency in the fields of government and business by providing for a Social Security System in the Republic of Palau under which persons covered may be assured of a measure of security in their old age or during disability, and may be given in old age an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivor’s insurance for their spouses and children.

(2) Although the system is established by Act and is compulsory, it is to be self-supporting and self-financing, and is not to be financed from public money (except to the extent that the Government, in its capacity as an employer, makes contributions to the system).

Section 3. Definitions.

(1) As used in this Act, the following words—shall have the following meanings ascribed to them unless context indicates otherwise:

(a) "Actuary" means a member of any society, institute or organization of qualified actuaries recognized in the Social Security By-laws;

(b) "The Board" means the Republic of Palau Social Security Board established by Section 8;

(c) "Child" in relation to a person and subject to Subsection (2):
(i) includes a child adopted legally or through traditional
customs by that person; and

(ii) does not include a child of that person who has been
adopted by some other person;

(d) "Contributions" means employee contributions or employer
contributions, or both, to the Retirement Fund.

(e) "Contributory employment" in relation to a quarter of
coverage, means a period of employment within that quarter during
which employee contributions were being made;

(f) "Currently insured" in relation to an employee contributor,
means having had not less than eight quarters of coverage during the
13 quarter period ending with the quarter in which the contributor:

(i) died; or

(ii) became entitled to old age insurance benefit; or

(iii) became disabled, as appropriate.

(g) "Disability" means inability to engage in any substantial
gainful employment by reason of any medically determinable physical
or mental impairment which can be expected to result in death or
which has lasted, or can be expected to last, for a continuous
period of not less than 12 months;

(h) "Employee" means a person who, under the usual common law
rules applicable in determining the employer/employee relationship,
has the status of an employee, and includes:

(i) an officer of a corporation; and

(ii) an elected official in any governmental unit or body;

and

(iii) in accordance with Section 30, a self-employed person.

(i) "Employee contributions" means contributions made under
Section 32 to the Retirement Fund;

(j) "Employee contributor" means a person who is making, or has
made, employee contributions.
(k) "Employer" means a person who, under the usual common law rules applicable in determining the employer/employee relationship, has the status of an employer, and includes:

(i) in relation to an officer of a corporation, the corporation; and

(ii) in relation to an elected official in any governmental body or unit, the National Government or the local government concerned, as the case may be; and

(iii) in relation to a self-employed person in accordance with Section 30, that person.

(l) "Employer contributions" means contributions made under Section 33 to the Retirement Fund;

(m) "Employment:

(i) in the case of a citizen or resident of the Republic of Palau means employment anywhere in the Republic of Palau; and

(ii) in the case of any other person, means employment in the Republic of Palau but does not include family employment;

(n) "Family employment" means, subject to Subsection (3), employment of a person by a member of the household, the parent or the child of the person concerned;

(o) "Fiscal Year" means a period of 12 months ending 30 September;

(p) "Fully insured" in relation to an employee contributor, means having not less than one quarter of coverage under this Act for each year;

(i) beginning after:

(aa) 30 June 1968; or

(bb) the attainment of the age of 21 years, whichever is the later; and
(ii) ending with the year before the year in which he attained retirement age, became disabled or died, as appropriate, with a minimum of 12 quarters of coverage;

(q) "The fund" means the Retirement Fund;

(r) "Governmental unit or body" means:

(i) in relation to a member of the Olbil Irae Kelulau, the National Government of the Republic of Palau; and

(ii) in relation to a member of a state government;

(s) "Month" means a month of the calendar;

(t) "Parent" includes an adoptive parent but does not include a natural parent of an adopted child unless the child is adopted by the spouse of the natural parent;

(u) "Quarter" means a period of three months ending on 31 March, 30 June, 30 September or 31 December in any calendar year;

(v) "Quarter of coverage" in relation to an employee contributor, means a quarter in which he has been paid remuneration of not less than $50.00 in wages subject to this Act and the payment has been reported under Section 34;

(w) "Remuneration" means, subject to Subsection (4), remuneration (by whatever name it is called) paid by an employer to an employee, and includes:

(i) the cash value of remuneration paid in any medium other than cash; and

(ii) in accordance with Section 30, the remuneration of a self-employed person; and

(iii) a stipend; and

(iv) allowances, but does not include

(v) any payment on account of sickness or accident, or medical or hospitalization expenses, made to or on behalf of an employee, other than sick leave pay or similar entitlements; or
(vi) any payment made to or on behalf of an employee or to his beneficiary from a trust or annuity; or
(vii) remuneration paid in any medium other than cash to an employee for:
(a) service not in the course of the employer's trade or business; or
(b) domestic service in a private home of the employer; or
(viii) remuneration paid for casual or intermittent labor not performed in the course of the employer's trade or business when the labor is in not more than one week in each month of each quarter; or
(a) remuneration from family employment; or
(b) remuneration in a form of the maximum taxable wage in a quarterly reporting period.
(x) "The retirement fund" means the Social Security Retirement Fund established by Section 25;
(y) "The Social Security Administration" means the Republic of Palau Social Security Administration established by Section 6;
(z) "The Social Security Administrator" means the Social Security Administrator appointed under Section 18(1);
(aa) "The Social Security By-laws" means the By-laws made under Section 15;
(bb) "The Social Security System" means the system of social security set up by this Act;
(cc) "Year" means a year of the calendar ending December 31.
(2) Any reference in the definitions of "child" and "parent" in Subsection (1), and anywhere else in this Act, to adoption is a reference to:
(a) an adoption in accordance with recognized custom in:
(1) The Republic of Palau; or
(ii) The Federated States of Micronesia; or
(iii) The Marshall Islands,
which has been confirmed by a court in accordance with 21
PRC 104 or any similar law; or
(b) an adoption anywhere in a country referred to under 21
PRC Chapter 4; or
(c) a valid adoption under the laws of some other country.
(3) On application by an employee, the Social Security Administrator
may determine whether or not any employment is family employment, or is
genuinely employment to which this Act applies.
(4) For the purpose of this Act, remuneration shall be computed to
the nearest cent.
(5) In this Act, a reference, direct or indirect, to:
(a) an employer in relation to an employee; or
(b) an employee in relation to an employer, is a reference to
them in their employer/employee relationship, and, as appropriate,
includes a reference to their rights and obligations, and any other
matter, arising out of that relationship.
Section 4. Coverage of this Act.
(1) Subject to Subsection (2), the following persons are covered by
this Act:
(a) any employee within the meaning of Section 3; and
(b) any self-employed person who has, in a given quarter, at
least one employee who receives from him remuneration as defined in
Section 3(1), the payment of which has been reported under Section
34; and
(c) any self-employed person who had more than $10,000 gross
revenue in the preceding calendar year (not including remuneration
as an employee).
(2) This Act does not apply to or in relation to an employee as to whom the Social Security Administrator certifies, in writing, that he is satisfied that the employee is participating in any other Social Security System or similar system prescribed in the Social Security By-laws, or recognized by the Social Security Administration, for the purpose of this Subsection.

Section 5. Amendment of this Act.

(1) Any bill to amend this Act which has financial implications for the Retirement Fund must be accompanied by a report from an actuary, which analyzes the implications of the bill for the Social Security System.

(2) In particular, any bill to amend any of the following provisions must be accompanied by such a report:

(a) Section 3;
(b) Section 4;
(c) Part III;
(d) Sections 30 through 33;
(e) Sections 37 through 44;
(f) Section 47.

Section 6. Establishment of the Social Security Administration.

There is hereby established within the Republic of Palau a Social Security Administration.

Section 7. Functions of the Administration.

(1) The Social Security Administration is charged with responsibility for the proper operation of the Social Security System.

(2) The powers, functions, duties and responsibilities of the Social Security Administration shall be exercised and performed by the Board.

Section 8. The Social Security Board. There is hereby established within the Republic of Palau a Palau Social Security Board.

Section 9. Incorporation of the Board.

(1) For the purposes of and for purposes related to this Act, the Board:
(a) is a corporation; and
(b) has perpetual succession; and
(c) shall have a seal; and
(d) may enter into contracts; and
(e) may acquire, hold, charge and dispose of property; and
(f) may sue and be sued in its corporate name; and
(g) has all the powers, functions, duties and responsibilities
of a corporation.

(2) The provisions of Title 12 of the Palau National Code do not
apply to or in relation to the Board.

Section 10. Membership of the Board and Compensation.

(1) Subject to Subsection (2), the Board shall consist of five
members, who shall be residents of the Republic of Palau, and shall be
appointed by the President with the advice and consent of the Senate.
Board members shall select one member to be the Chairman.

(2) The President of the Republic shall call the first meeting of
the Board. Subsequently, the Board shall meet at the call of the
chairman or a majority of the members of the Board. The time and place
of such meetings shall be designated by the Chairman. Minutes of all
meetings shall be recorded. Three affirmative votes shall be required
for any decision by the Board.

(3) Appointments to the Board shall take into account the need to
have adequate geographical representation, and to have representatives of
employers and employees from both the public and the private sector.

(4) Members of the Board shall be appointed for terms of four
years; however, of the members initially appointed by the President, two
shall serve two years, and three for four years. Thereafter, all
appointments shall be for full four-year terms. Any member may be
reappointed for additional term. Members of the Board shall serve at the
will of the President and may be removed from office, for cause.
(5) Subject to Subsections (2) any vacancy in the membership of the Board shall be filled in the same manner for the remainder of the term of appointment of the former member.

(6) Members of the Board shall be compensated at the rate of fifty dollars ($50.00) per day when actually attending meetings of the Board, provided however, that no Board member shall receive more than five hundred dollars for each calendar year for services rendered as a member of the Board.

(7) In addition, the Social Security Administrator is an ex officio member of the Board.

Section 12. General Powers and Functions of the Board.

(1) The Board shall exercise and perform its powers and functions under this Act in the name of the Social Security Administration.

(2) For the purposes of this Act, and subject to this Act and the Social Security By-laws, the Board may:

(a) transact any business; and

(b) enter into contracts for management, auditing and other advice and services; and

(c) issue subpoenas and administer oaths appropriate for the administration of this Act.

(3) The Board shall bond its members and the employees of the Social Security Administration in such cases and in such amounts as the Board determines.

(4) The Board shall, pursuant to Title 6 of the Palau National Code, have the authority to make any rules and regulations necessary to carry out its duties and functions pursuant to this Act and to conduct adjudicative proceedings.
Section 13. Actuary.

1. The Board shall appoint an actuary on such terms and conditions as are agreed upon between the Social Security Administrator and the actuary.

2. The actuary shall make actuarial valuations of the Social Security System not less frequently than once in every four years after the effective date of this Act.

3. Any report submitted to the Board following a valuation under Subsection (1) shall be submitted by the Board to the OEX, and to the President of the Republic of Palau, with any appropriate recommendations for changes in the system and amendments to this Act.

4. The Public Auditor shall issue annual reports on the fiscal soundness of the Social Security System, such reports to be provided to the Board, the President of the Republic, and the presiding officers of the Olbiil Era Kelulau.


1. The Board shall appoint an independent auditor, on such terms and conditions as are agreed upon between the Social Security Administrator and the auditor.

2. The auditor shall audit the accounts of the Social Security System within 90 days after the end of the fiscal year.

3. The Board shall, as soon as practicable, submit the accounts and the auditor's report to the Olbiil Era Kelulau, and to the President of the Republic of Palau, and the accounts and report shall be made available to the general public upon request.

Section 15. By-laws.

1. The Board shall promulgate its own By-laws, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed in the By-laws, or which are necessary or convenient to be so prescribed, for carrying out or effectuating this Act, and in particular:
(a) for prescribing the procedures of and in relation to the
Board (including the quorum); and

(b) generally, for the administration of this Act.

(2) By-laws made under Subsection (1) are of no force or effect
until approved pursuant to Title 12 of the Palau National Code.

Section 16. Hearing. Subject to the Social Security By-laws, the
Board may make decisions after holding hearings, or make decisions in the
light of hearings held by persons authorized by it to do so, for the
purpose of determining any question involving any right, benefit or
obligation of any person under this Act.

Section 17. Review of Decision of the Board.

(1) Any person aggrieved by a final decision of the Board may
obtain a review of the decision in the Supreme Court by filing with the
Clerk of Courts, within 60 days after receiving notice of the decision, a
written petition praying that the decision be modified or set aside in
whole or in part.

(2) A copy of the petition shall be served on the Board, and
thereupon the Board shall certify and file with the Clerk of Courts a
copy of the record on which the order was based.

(3) The findings of the Board as to facts, if supported by
competent material and substantial evidence, is final.

(4) If a party to a hearing:

(a) applies to the Supreme Court for leave to adduce
additional material evidence; and

(b) shows to the satisfaction of the court that:

(i) there were reasonable grounds for failure to adduce
the evidence at the hearing before the Board of the authorized
person who held the hearing; and

-11-
(ii) the additional evidence is competent, material, and substantial, the court may order the additional evidence to be taken by the Board and to be adduced upon the hearing in such manner and upon such conditions as the Court thinks proper.

Section 18. Appointment of the Social Security Administrator.

(1) The Board shall appoint a person to be the Social Security Administrator.

(2) The compensation and other terms and conditions of employment of the Administrator are to be determined by the Board.

Section 19. Duties of the Administrator. The Social Security Administrator is responsible to the Board for the general administration of the Social Security System, and has such other powers, functions, duties and responsibilities as are prescribed by this Act or the Social Security By-laws.

Section 20. Delegation by the Administrator.

(1) Subject to the Social Security By-laws, the Social Security Administrator may, by written instrument, delegate to any employee of the Social Security Administration any of his powers and functions under this Act or the Social Security By-laws.

(2) A delegation under Subsection (1) may apply to the whole of the Republic of Palau, or to the part of the Republic of Palau specified in the instrument of delegation.

(3) A delegation under Subsection (1) may be made subject to such limitations and conditions (if any) as the Administrator deems proper and necessary.

(4) A delegation under this section is revocable, in writing, at will, and no delegation prevents the exercise or performance of a power or function by the Administrator.

Section 21. Employment Records. The Social Security Administrator shall maintain records of all employees and of all contributors (including self-employed persons referred to in Section 4(1)(b) or (c).
Section 22. Secretary, Managers and Other Staff.

(1) The Social Security Administrator may, on behalf of the Social Security Administration, appoint a secretary to the Board and hire such other employees necessary to carry out the provisions of this Act.

(2) The other terms and conditions of employment of persons employed under Subsection (1) are to be determined by the Social Security Administrator in accordance with established Public Service System regulations covered under this Act.

(3) The duties of a person employed under Subsection (1) are as prescribed by the Social Security By-laws and, subject to those by-laws, as determined by the Social Security Administrator.

Section 23. Preparation of the Budget.

(1) At such time as the Board directs, the Social Security Administrator shall prepare and submit to the Board, in the manner prescribed by the Social Security By-laws, detailed budget estimates for the proper conduct of the Social Security System for the next fiscal year.

(2) The estimates shall include:

(a) the audited accounts of the Retirement Fund for the last full fiscal year; and

(b) a statement showing the estimates of income and expenditure for the fiscal year in progress, together with any summaries, schedules and supporting data that the Social Security Administrator thinks necessary; and

(c) a budget showing the estimated income and expenditure for the next fiscal year.

Section 24. Cost of Administration.

(1) Except with the approval of the Ombud Ewa Kalulau the budget shall not provide for administrative expenses exceeding 20% of the estimated income for the fiscal year from contributions and interest, and dividend income on investments.
(2) In Subsection (1), "administrative expenses" includes:
(a) salaries, wages and allowances; and
(b) the cost of office supplies and equipment; and
(c) operational expenses; and
(d) the maintenance of the office, but does not include capital
expenses.

Section 25. Establishment of the Retirement Fund.
(1) There is hereby established within the Palau Social Security
System a Social Security Retirement Fund.
(2) As the Retirement Fund consists of money held for the purposes
of the Social Security System, it shall be kept in a separate account and
apart from the Republic of Palau General Fund and any other fund or
account established.
(3) The Retirement Fund shall be administered by the Social Security
Administration exclusively for the purposes of this Act.

Section 26. Payments into the Fund. There shall be paid into the
Retirement Fund:
(a) all contributions; and
(b) all civil penalties and interest paid under Section 51; and
(c) all gifts, donations and interest paid under Section 51; and
(d) all proceeds from the investment of money from the Fund; and
(e) any money transferred from the Trust Territory Social
Security Retirement Fund to the Fund.

Section 27. Payments out of the Fund. All benefits and all expenses
incurred in the operation of the Social Security System shall be paid
from the Retirement Fund.

Section 28. Manner of Dealing with the Fund.
(1) Subject to this Act:
(a) The Retirement Fund shall be administered; and
(b) Payments shall be made into and out of the Fund, in such manner and conditions as are prescribed by the Social Security By-laws.

(2) By-laws for the purposes of Subsection (1) shall be made only after consultation with the actuary appointed under Section 13, and with the auditor appointed under Section 14.

Section 29. Investment.

(1) Subject to this Act, and in particular to the provisions of this Section, the Board may:

(a) invest and re-invest its moneys; and

(b) retain a person, firm or corporation to invest or re-invest its moneys, under the supervision of the Board; and

(c) hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of its moneys are held.

(2) After investigation and study, the Board shall determine the method of investing moneys of the Retirement Fund to ensure the greatest return commensurate with sound and adequately safeguarded financing.

(3) Moneys of the Retirement Fund may be invested only:

(a) in bonds or other evidences of indebtedness of the Government of the United States; and

(b) subject to Subsections (4) and (6), bonds or other evidences of indebtedness of any State of the United States; and

(c) subject to Subsection (6), bonds, debentures, notes and other evidences of indebtedness issued or assumed by a public corporation or statutory authority constituted under the law of the Republic if they are guaranteed as to the principal and interest by the Government; and
(d) subject to Subsections (5) and (6), bonds, debentures, notes
and other evidences of indebtedness issued, assumed or guaranteed by
any solvent corporation organized under a law of the Republic, or of
the United States or a State or territory of the United States; or
(e) subject to Subsection (6), common or preferred stock.

(4) An investment in accordance with Subsection (3)(b) may be made
only if the bonds or other evidences of indebtedness are payable from
revenues or earnings specifically pledged for the payment of the
principal and interest, for the payment of which a lawful sinking fund or
reserve fund has been established and is being maintained, and in
addition only if:

(a) no default in payment of principal or interest on the bonds
or evidences to be purchased has occurred within five days before
the investment; or
(b) if the bonds or evidences of indebtedness were issued less
than five years before the investment—no default in payment of
principal or interest has occurred on them or on any other
obligations of the issuer within five years before the investment.

(5) Investments shall not be made in accordance with Subsection
(3)(b), (c) or (d) if the investment would mean that more than 25% in
value, at cost price, of the Fund would be in the bonds, debentures,
notes and other evidences of indebtedness of any one State or institution
referred to in those paragraphs.

(6) An investment may be made in accordance with Subsection (3)(e)
only if:

(a) the stock is listed on the New York Stock Exchange or the
American Stock Exchange; and
(b) no dividends on the stock have been omitted or deferred
within five years of the investment; and
(c) the investment would not mean that more than:

(i) 5% in value, at cost price, of the Fund would be in stock of any one corporation; or

(ii) 10% in value, at cost price, would be in the stock of any one industry group, and in addition only if the investment would not mean an investment from the Retirement Fund, valued at cost price, in the stock of any one corporation of more than $350,000.

(iii) are secured by collateral worth at least 59% more than the par value of the entire issue of the bonds or as the case may be, and in addition only if not more than one-third of the total value of the collateral referred to in paragraph (b) consists of common stock.

(7) The Board may borrow money, subject to the approval of all documents pertaining to such a loan by the President of the Republic and by joint resolution passed by a majority of each house of the Olbiil Era Kelulau.

(8) The assets of the Social Security System shall not be loaned to or borrowed by any person, corporation, enterprise, any state government of the Republic of Palau, the national government of the Republic of Palau, or any governmental entity of the Republic of Palau whatsoever; provided that the assets or a portion of the assets may be invested pursuant to this Section, such investment constituting a borrowing, at interest; provided further that such investment shall not be in the national government of the Republic, any state government of the Republic, or any governmental entity of the Republic whatsoever.
PART IV. - SOCIAL SECURITY CONTRIBUTIONS.

Section 30. Application of Part IV to Self-Employed Persons.

(1) For the purposes of this Part, a self-employed person referred to in Section 4(1)(b) or (c) shall be deemed to be both his own employer and his own employee, and accordingly is liable to pay to the Board with respect to himself for both employer contributions and employee contributions, and shall include himself in reports under Section 34.

(2) For the purposes of this Part, a self-employed person referred to in Section 4(1)(b) shall be deemed to receive in any quarter, as remuneration, twice the amount paid to his highest-paid employee in that quarter.

(3) For the purposes of this Part, a self-employed person referred to in Section 4(1)(c) shall be deemed to receive in any quarter, as remuneration, 25% of his gross revenue in the preceding calendar year.

(4) Remuneration deemed by Subsection (2) or (3) to be received in a quarter shall be deemed to have been paid on the last day of the quarter.

Section 31. Maximum Remuneration for Purpose of Part IV. For purposes of this Part, no amount shall be taken of any remuneration paid or deemed to have been paid to any person by the one employer, during a quarter, in excess of $2,000.

Section 32. Employee Contributions.

(1) An employee shall contribute to the Social Security Administration amounts equal to the following percentages of remuneration received by him:

(a) with respect to remuneration paid from the effective date of this Act through 30 June 1986 - 2%
(b) with respect to remuneration paid from 1 July 1986 through 30 September 1991 - 3%
(c) with respect to remuneration paid from 1 October 1991 through 30 September 1996 - 4%
(d) with respect to remuneration paid from 1 October 1996 through 30 September 2001 - 5%
(e) with respect to remuneration paid after 30 October 2001 - 6%

(2) Employee contributions payable shall be collected by the employer of the employee by deducting the amount of the contributions from each payment of remuneration.

(3) Every employer required to deduct employee contributions is liable for their payment to the Board, and shall be indemnified from the Retirement Fund against any claim or demand by any person for the amount of any such payment.

Section 33. Employer Contributions. An employer shall contribute to the Social Security Administration amounts equal to the following percentages of the remuneration paid by him or, in the case of a self-employed person to whom Section 4(1) (b) or (c) applies, deemed to have been paid to him:

(a) with respect to remuneration paid or deemed to have been paid from the effective date of this Act through 30 June 1986 - 2%
(b) with respect to remuneration paid or deemed to have been paid from 1 July 1986 through 30 September 1991 - 3%
(c) with respect to remuneration paid or deemed to have been paid from 1 October 1991 through 30 September 1996 - 4%
(d) with respect to remuneration paid or deemed to have been paid from 1 October 1996 through 30 September 2001 - 5%
(e) with respect to remuneration paid or deemed to have been paid after 30 October 2001 - 6%

Section 34. Reports and Payment of Contributions.

(1) In accordance with this section and the Social Security By-laws,
each employer shall report quarterly, on the official form, to the Social
Security Administration and pay all amounts of contributions due at the
end of each quarter.

(2) The reference in Subsection (1) to an official form is a
reference to a form to be provided by the Social Security Administration
to each employer, on which the employer shall show, in addition to other
information specified by the Social Security Administrator, the employer
account number and the employee contributor social security number
assigned under Section 36.

Section 35. Refunds.

(1) If an employee contributor is reported (whether by one or more
employers) under Section 34 with total remuneration in excess of $2,000
per quarter and his employee contributions are withheld and paid to the
Social Security Administration accordingly, the excess employee
contributions during the four quarters ending on 31 December shall be
refunded by the Administration to the employee contributor within 90 days
after that date.

(2) No refund shall be made for amount of remuneration less
than $50.00

(3) No refund shall be made of an amount less than $2.00.

(4) In a case to which Subsection (1) applies, no refund shall be
made to any employer on any amount in excess of employer contribution
paid by him (other than to correct an error).

Section 36. Employer Account Numbers and Social Security Cards and
Numbers.

(1) The Social Security Administrator shall assign to each employer
an account number, and to each employee contributor a social security
number and a card bearing such number.
(2) The numbers shall be assigned from a permanent register maintained by the Social Security Administrator.

PART V. BENEFITS.

Section 37. Interpretation of Part V.

(1) In this Part "the basic benefit" means, in each month, 1/12 of the total of:

(a) 16.2% of the first $10,000 of cumulative covered earnings;

and

(b) 2.7% of cumulative covered earnings in excess of $10,000 but not in excess of the next $30,000; and

(c) 1.35% of cumulative covered earnings in excess of $40,000 but not in excess of the next $30,000;

(d) 0.675% of cumulative covered earnings in excess of $70,000

(i) "cumulative covered earnings" means remuneration on which employee contributions have been made;

(ii) "subject to the earnings test" means subject to Section 47.

(2) For the purposes of this Part, a child shall be deemed to be, or to have been at any relevant time, dependent on each of its parents who is, or was at the relevant time, contributing to the support of the child, if the child is ordinarily in residence with that parent.

Section 38. Types of Benefits.

(1) Following are the types of benefits in this Act:

(a) old age insurance benefit, in accordance with Section 39;

and

(b) survivor's insurance benefits, that is to:

(i) surviving spouse's insurance benefit, in accordance with Section 41; and

(ii) surviving child's insurance benefit, in accordance with Section 42; and
(c) disability insurance benefit, in accordance with Section 40; and
(d) a lump sum benefit in certain cases, in accordance with Section 44.
(2) No person may receive two types of benefits at the same time, and he or she shall, by written notice to the Social Security Administrator, elect which benefit he prefers to receive.
(3) Until an election is made under Subsection (2), the person concerned shall receive whichever of the benefits in the opinion of the Social Security Administrator will yield the highest return.
Section 39. Old Age Insurance Benefit.
(1) A person who:
   (a) is fully insured; and
   (b) has attained the age of 60 years, is entitled to a monthly old age insurance benefit:
   (c) beginning with the month in which both paragraph (a) and paragraph (b) are complied with; and
   (d) ending with the month preceding the month in which he dies, subject to the earnings test.
(2) The monthly amount of the benefit is the basic benefit, with a minimum monthly benefit of $43.20.
(3) If a person who is receiving old age insurance benefit returns to employment, the benefit shall be recomputed at the end of the calendar year and the recomputed benefit shall be paid on the first month of the next calendar year.
(4) It is the responsibility of the payee to advise the Social Security Administration immediately when he returns to employment.
Section 40. Disability Insurance Benefit.
(1) Subject to Section 48, a person who:
   (a) is disabled; and
(b) was at the time of the onset of the disability fully and currently insured; and

(c) has been disabled for at least three full months, is entitled to a monthly disability insurance benefit;

(d) beginning with the first month to which paragraph (c) applies; and

(e) ending with the month before the month in which:

(i) he dies, or

(ii) he recovers from the disability, whichever first occurs, subject to the earning test.

(2) Subject to Subsection (3) and (4), the monthly amount of the benefit is the basic benefit.

(3) If the person is receiving a periodic workmen's compensation benefit, the amount referred to in Subsection (2) is reduced in any month by the amount in which the total of:

(a) the amount of the workmen's compensation equals benefit for the month; and

(b) the basic benefit exceeds 80% of 1/12 of the highest annual remuneration (up to a limit of $6,000 per annum) on which contributions were made received by him in the period consisting of:

(c) the year in which the disability occurred; and

(d) the preceding five years.

(4) For the purposes of Subsection (3), if a workmen's compensation benefit was payable in periodic amounts but was computed to a lump sum, it shall be treated as if the periodic benefit originally payable was in fact paid as it would have been paid if the computation had not taken place.
Section 41. Surviving Spouse's Insurance Benefit.

(1) Subject to Section 43, the surviving spouse of a person who has died fully insured is entitled to a monthly survivor's insurance benefit:

(a) beginning with the month of death of the person concerned; and

(b) ending with the month preceding the month in which the surviving spouse dies or re-marries, subject to the earning test.

(2) Subject to Subsection (3), the monthly amount of the benefit is 60% of the basic benefit applicable to the deceased at the time of his death.

(3) If the surviving spouse is eligible for the old age insurance benefit based on her employment coverage, the surviving spouse's benefit is reduced by the amount of the old age insurance benefit.

Section 42. Surviving Child's Insurance Benefit.

(1) Every surviving child who was, immediately before the death of a person who died fully or currently insured, dependent upon that person, is entitled to a monthly survivor's insurance benefit:

(a) beginning with the month of death of the person concerned; and

(b) ending with the month preceding the month in which the child:

(i) subject to Subsection (2), attains the age of 18 years; or

(ii) marries; or

(iii) is adopted

(2) Notwithstanding Subsection (1) (b) (i), but subject to Subsection (1)(b)(ii) and (iii):

(a) the benefit is payable until the month before the attainment of the age of 22 years, so long as the child is a bona fide student; and
(b) subject to Section 46, if a child is disabled before the
atainment of the age of 22 years, the benefit is payable during the
disability.

(3) Subject to Section 42, the monthly amount of the benefit is 15%
of the amount of the basic benefit applicable to the deceased at the time
of his death.

(4) For the purposes of this section, the Social Security By-laws
shall prescribe criteria for determining whether a person is a bona fide
student.

Section 43. Maximum and Minimum Amounts of Survivor's Insurance
Benefit.

(1) Subject to Subsection (2), the monthly total of the survivor's
insurance benefits payable with respect to a deceased employee
contributor shall not exceed the basic benefit applicable to him
immediately before his death, without reference to Section 39(3).

(2) The minimum amount of the total of a survivor's insurance
benefit is $43.20 per month, computed before the application of Section
41(3).

(3) Where there are more persons than one entitled to the survivor's
insurance benefit, any reduction by virtue of this section shall be made
to all such benefits proportionately to the amount of the benefits.

Section 44. Lump Sum Benefits.

(1) If after:

(a) an employee contributor dies; and

(b) all rights to survivor's insurance benefits in respect to
him have been terminated, the benefits paid under this Part to or
with respect to him total less than 4% of his adjusted cumulative
covered earnings, there shall be paid to his estate an amount equal
to 4% of his cumulative covered earnings, less the amount of the
benefits actually paid.
(2) In the absence of a will, the amount payable under Subsection (2) shall be distributed as follows:

(a) to the spouse; or

(b) if there is no surviving spouse, to the children, or to any guardian or trustee for the children, in equal shares; or

(c) if there is no surviving spouse or child, to the parents in equal shares; or

(d) if there is no surviving spouse, child or parent, to the duly appointed legal representative of the deceased, on behalf of the person referred to in paragraph (e); or

(e) if none of the preceding paragraphs apply, to the persons entitled to it under the law and customs of the last domicile of the deceased.

Section 45. Overpayment and Underpayments.

(1) Subject to Subsection (2) and (3), any over-payment or under-payment of benefits shall be deducted from or added to any subsequent payment of benefit to or with respect to the payee, and in any event it shall, if necessary, be deducted from or added to any subsequent payment of lump sum benefit.

(2) If there are, at the time of deduction or addition, more persons than one whose survivor’s benefit may be affected by reason of the over-payment or under-payment, the necessary adjustment shall be made to all such benefits proportionately to the amount of the benefits.

(3) No deductions shall be made when the adjustment would be made against equity and good conscience.

(4) A deduction under Subsection (1) may be made by installments, and in that case that subsection applies as if each installment related to a separate over-payment.
(5) Nothing in this section affects the liability of an employee
ccontributor or his estate for, or his right or the right of his estate
to, any amount of an over-payment or under-payment that is not adjusted
in accordance with this section.

Section 46. Payments to Non-Citizens Overseas.

(1) Notwithstanding anything in this Part but subject to
Subsection (2) and (3), no benefit shall be paid to a person who is not a
citizen of the Republic of Palau with respect of any month:

(a) after a six months continuous period of absence of the
person from the Republic of Palau; and

(b) before the first full month for all of which the person
has been in that area.

(2) For the purposes of Subsection (1), after a person has been
outside the area referred to in Subsection (1)(a) for a continuous period
of 30 days, he shall be treated as remaining outside until he has again
returned to the Republic of Palau for a continuous period of 30 days.

(3) Subsection (1) does not apply to a person who is a citizen of
a foreign country prescribed in the Social Security By-laws to be a
country that, for the purposes of this section, is classified as a
country that has in effect a social insurance or pension system which is
of general application in that country and under which:

(a) periodic benefits, or the actuarial equivalent of
periodic benefits, are paid on account of old age, disability and
death, or any one of them; and

(b) person who are citizens of the Republic of Palau but who
are not citizens of that country, and who otherwise qualify for
such benefits, are permitted to receive them, or the actuarial
equivalent of them, while outside of that country without regard to
the duration of the absence.
Section 47. The Earnings Test.

(1) When any provision of this Part provides that a benefit is subject to the earnings test, a person who is receiving that benefit and who is at the same time in employment shall have his quarterly benefit reduced by $1.00 for every $2.00 earned in the quarter in excess of $300.00.

(2) The reduction shall be applied in one of the two quarters immediately after the quarter in which the earnings were made, or, if not, as soon as possible afterwards.

(3) Where any benefit is subject to the earnings test, the effect of Subsection (1) is the last determination to be made in calculating the amount of the benefit.

Section 48. Evidence of Disability.

(1) In accordance with the Social Security By-laws, before:

(a) continuing the payment of a surviving child's insurance benefit to or on behalf of any person in accordance with Section 42(2)(b); or

(b) granting eligibility for disability insurance benefit, the Social Security Administrator may require the person concerned;

(c) to undergo a medical or other examination or test or

(d) to provide other evidence, to the satisfaction of the Social Security Administrator, as to the disability.

(2) In accordance with the Social Security By-laws, at any reasonable time while benefits are being paid on account of disability, the Social Security Administrator may require the payee to undergo an examination or test, or to provide other evidence referred to in Subsection (1) to verify the continuance of the disability.

(2) It is the responsibility of the payee to advise the Social Security Administrator immediately when the disability ceases.
Section 49. Evidence of Entitlement Generally.

(1) The Social Security Administrator may at any time require a person receiving a benefit under this Act to produce evidence, to the satisfaction of the Social Security Administrator, of his entitlement to that benefit.

(2) If evidence required under Subsection (1) is not produced within a reasonable time fixed for the purpose required by the Social Security Administrator and notified to the person concerned, the Social Security Administrator may suspend payment of the benefit until the necessary evidence is produced.

(3) In the case of a person who has not attained the age of 18 years, a requirement under Subsection (1) may be directed to a parent or guardian of the person.

PART VI. OFFENSES AND PENALTIES.

Section 50. False Statements and Reports. A person who knowingly makes a false statement or falsifies any report to or record of the Social Security Administration in an attempt to defraud the Social Security System is guilty of a misdemeanor and is liable to imprisonment for a period not exceeding 12 months or a fine of not more than $2,000, or both.

Section 51. Failure to Report, etc.

(1) An employer who knowingly fails to report, as required by Section 34, any amount of remuneration paid, or to pay any amount of contributions due as required by that section:

(a) is liable for a civil penalty, at the discretion of the Board, of not more than 100% of the amount of any contributions withheld or $250 (whichever is greater), plus interest as prescribed by the Social Security By-laws; and
(b) in addition, is guilty of a misdemeanor and is liable to a
fine of not more than $2,000.

(2) If:

(a) an employer, otherwise than knowingly, fails:

(i) to report, as required by Section 34, any amount of
remuneration paid; or

(ii) to pay any amount of contributions due, as required
by that section; and

(b) the failure continues for period of not less than 10 days
after the end of the relevant quarter, the employer is liable for a
civil penalty, in the discretion of the Board, of not more than
$250, plus interest as prescribed by the Social Security By-laws.

(3) The amount of any civil penalty or interest due under Subsection
(1) or (2) shall be paid into the Retirement Fund.

Section 52. Secrecy. If a member of the Board, or any person
employed for the purposes of this Act, reveals to any other person any
information about an employer, an employee or a person receiving a
benefit under this Act that has come to his knowledge by virtue of his
employment, except:

(a) for the purposes of this functions under this act; or

(b) as required by order of a court; or

(c) as authorized by the Board, that person is guilty of a
misdemeanor and is liable to imprisonment for a period of not
exceeding 12 months or a fine of not more than $2,000, or both.

PART VII. MISCELLANEOUS

Section 53. Audit of Employer's Records. Subject to the Social
Security By-laws, the Social Security Administrator may audit the records
of any employer or of a self-employed person, to the extent that they
have a bearing on his liability to pay contributions.
Section 54. Reciprocal Arrangements. In view of the considerable
movement of Palauan citizens to other countries outside of the Republic of
Palau, the Board shall endeavor to negotiate reciprocal agreements for
social security coverage with the Social Security Administrations of
those countries.

Section 55. Taxation. The income, property and transactions of the
Social Security Administration are not subject to any tax, rate, charge
or impost under any other law.

Section 56. Protection of Benefits, etc. Benefits and
contributions paid or payable under this Act are not subject to
execution, attachment or garnishment under any law of the Republic, and
are not assignable.

Section 57. Service on the Administration, etc. Any process or
other document required or permitted by this Act or any other law to be
served on or given to the Social Security Administration, the Social
Security Administrator or the Board may be served or given by delivering
it to the Social Security Administrator or to the Secretary of the Board.

Section 58. Reports.

(1) The Board shall, as soon as practicable after the end of each
fiscal year, make a report to the President and to the Olehlelel Era Kelulau
on its operations and the functioning of the Social Security System
during the fiscal year, and on the condition of its funds.

(2) The Board may at any other time make a report to the President
and the Olehlelel Era Kelulau on any aspect of the Social Security System.

(3) In a report under Subsections (1) or (2), the Board may make
such recommendations as to the improvement of the Social Security System
and amendment to this Act as the Board deems proper and necessary.

PART VIII. TRANSITIONAL ARRANGEMENTS.

Section 59. Appportionment of Assets of the Trust Territory Fund.

(1) After the effective date of this Act, the portion of the Trust
Territory Fund and of investment income earned but not received allocable
to the Palau Social Security shall be determined.

(2) The determination shall be made by an actuary in accordance
with generally-accepted actuarial principles, and shall be done in such a
manner as to ensure the equitable treatment of contributors and
beneficiaries under:

(a) the Palau Social Security System; and

(b) other successor Social Security Systems;

(3) The allocation shall be based on the contributions of living
employees and of persons in receipt of old age, survivor's and disability
insurance benefits.

(4) For the purposes of Subsection (2), the actuary shall be
appointed by the Trust Territory Board and the cost of the actuarial
valuation shall be paid by the Trust Territory Board and allocated on a
pro rata basis among the successor Social Security Systems to the Trust
Territory Social Security System.

(5) By agreement between the Palau Board and the Trust Territory
Board, the portion of the invested assets of the Trust Territory Social
Security System that is allocated to the Palau Social Security System
shall be transferred to the Palau Social Security Board at the earliest
time possible, but not later than 180 days from the effective date of
this Act.

(6) Until the time referred to in Subsection (5), separate accounts
of each of the successor Social Security Systems shall be established and
maintained.

Section 60. Real and Personal Property.

(1) As of the effective date of this Act, all real and personal
property of the Trust Territory Social Security System in the Republic of
Palau is vested in the Palau Social Security Administration.
(2) When the affairs of the Trust Territory Board are wound up in regard to both the Republic of Palau and the other successor Social Security Systems, all remaining movable property and personal property of the System shall be distributed on the equitable basis based on needs established by the Trust Territory Social Security Board.

PART IX. REPEAL AND EFFECTIVE DATE.

Section 61. Repeal. Subject to Section 62 of this Act, Title 41 of the Palau National Code is hereby repealed.

Section 62. Savings.

(1) The provisions of this section apply notwithstanding the repeal of Title 41 of the Palau National Code by Section 62.

(2) The Trust Territory Social Security Board, and the provisions of Title 41 of the Palau National Code relating to the Board, continue in existence and in effect so long as it is necessary, and to the extent that it is necessary:

(a) for the performance of the functions of that board under this Act and any corresponding law of the Federated States of Micronesia or the Republic of the Marshall Islands; and

(b) thereafter, for the purposes of the winding-up of its affairs, and on the completion of the winding-up of its affairs the board is dissolved.

(3) The provisions of Title 41 of the Palau National Code relating to prior service and prior benefits continue in effect.

Section 63. Effective Date. This Act shall take effect upon being signed into law by the President of the Republic of Palau or otherwise becoming law.

PASSED: April 30, 1987

Approved this day of May 1987.

Lazarus E. Sarec
President of the Republic