# A BILL FOR AN ACT


**Offered by Delegate(s):** Laurentino Ulechong, et al.

**Date Introduced:** July 15, 1991

## House Action

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## Conference Committee Action

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Clerk: Alvin Anastacio  
Asst. Clerk: Felix M. Watanabe
AN ACT


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

Section 1. Repeal. APPL No. 2-29, except for Sections 6 through 12 thereof, is repealed in its entirety.

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 ensured 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 an 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 APPL No. 2-29.
(c) "Child" means a person's natural child or a child adopted legally or through traditional customs, but does not include a natural child 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" means a period of employment within a quarter of coverage during which employee contributions were made.

(f) "Currently insured" means having had not less than eight quarters of coverage during the thirteen quarter period ending with the quarter in which the contributor died, became entitled to old age insurance benefits, or became disabled.

(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 government unit or body;

   and

   (iii) in accordance with Section 22, a self-employed person.

(i) "Employee contributions" means contributions made under Section 24 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 22, that person.

(l) "Employer contributions" means contributions made under Section 25 to the Retirement Fund.

(m) "Employment" means:

(i) in the case of a citizen of the Republic of Palau, employment anywhere in the Republic of Palau and employment outside of the Republic of Palau if such employment is with an employer incorporated or domiciled in the Republic of Palau; and

(ii) in the case of any other person, employment anywhere in the Republic of Palau.

(n) "Fiscal Year" means a period of 12 months ending 30 September.

(o) "Fully insured" means having not less than one quarter of coverage under this Act for each year beginning with the later of June 30, 1968 or the year he attains the age of 21 years, and ending with the year before the earlier of the year in which he attains retirement age, becomes disabled, or dies.

(p) "Fund" means the Retirement Fund.

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

(r) "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.

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

(t) "Quarter of coverage" means a quarter in which an employee
contributor has been paid remuneration of not less than $300 subject
to this Act and payment has been reported under Section 26.

(u) "Remuneration" means remuneration paid by an employer to an
employee, and includes:

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

(ii) the remuneration of a self-employed person; and

(iii) a stipend; and

(iv) allowance, 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; and

(vi) any payment made to or on behalf of an employee or to
his beneficiary from a trust or annuity; and

(vii) remuneration paid in any medium other than cash to an
employee for service not in the course of the employer's trade or
business, or domestic service in a private home of the employer;
and

(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; and

(ix) remuneration in excess of the maximum remuneration.

(v) "The Retirement Fund" means the Social Security Retirement
Fund established by Section 1B.

(w) "The Social Security Administration" means the Republic of Palau Social Security Administration established by APPL No. 2-29.

(x) "The Social Security Administrator" means the Social Security Administrator appointed under Section 11(1).

(y) "The Social Security By-Laws" means the By-Laws established under Section 15.

(z) "Year" means a year of the calendar ending December 31.

(2) Any reference to adoption in the definitions of "child" and "parent" is:

(a) an adoption in accordance with recognized custom in:

(i) 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 PMC 104 or any similar law; or

(b) an adoption anywhere in a country referred to under 21 PMC Chapter 4; or

(c) a valid adoption under the law of some other country.

(3) On application by an employee, the Social Security Administrator may determine whether or not any employment is genuinely an employment to which this Act applies.

(4) Remuneration shall be computed to the nearest cent.

(5) A reference, direct or indirect, to an employer in relation to an employee, or 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. All employees working in the Republic of Palau are covered by and subject to the provisions of this Act.
and RPPL No. 2-29. All citizens of the Republic of Palau who are employed
by an employer incorporated or domiciled in the Republic of Palau and who
are working outside of the Republic of Palau are also covered by and subject
to the provisions of this Act.

Section 5. Amendment of this Act. Any bill to amend this Act which
has financial implications for the Retirement Fund must be accompanied by a
report from the actuary.

Section 6. 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 an actuarial
valuation shall be submitted by the Board to the Olbiil Era Kelulau, and to
the President of the Republic of Palau, with any appropriate recommendations
for changes in the System and amendments to this Act.

Section 7. Auditor.

(1) The Board shall appoint an independent auditor, on such terms
and conditions as are agreed on 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.

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

Section 8. 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.

Section 9. Hearings and Claims Appeals.

(1) 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 to do so, for the purpose of determining any question involving any right, benefit or obligation of any person under this Act.

(2) Any person aggrieved by a decision of the Administration involving any right, benefit or obligation of that person under this Act may appeal that decision in the following manner:

(a) within thirty days of receipt of the Administration's decision, the aggrieved person may file a request for reconsideration of that decision with the Administration and, along with that request, may provide any reasons or additional documentary evidence which would support a reversal of the original decision;

(b) if the original decision is upheld by the Administration, then, within thirty days of receipt of the reconsidered decision, the aggrieved person may file a request for a hearing before the Board and, along with that request, may provide any reasons or additional documentary evidence which would support a reversal of the reconsidered decision by the Administration;

(c) failure to adhere to this claims appeal procedure or failure to file a request within the stated time period shall result in the
denial of the appeal and the loss of the right to further appeal the
decision.

Section 10. Review of the 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 finding 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

(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 11. 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 12. 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 13. 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 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 may be made subject to such limitations and conditions, as the Administrator deems proper and necessary.

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

Section 14. Employment Records. The Social Security Administrator shall maintain records of all employees and of all contributors, including self-employed persons referred to in this Act.

Section 15. 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 such employment are determined by the Social Security Administrator.

(3) The duties of a person employed are as prescribed by the Social Security By-Laws and, subject to those By-Laws, as determined by the Social Security Administrator.
Section 16. 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 fiscal year; and

(b) a statement showing the estimates of income and expenditures 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 expenditures for the next fiscal year.

Section 17. Costs of Administration.

(1) Except with the approval of the Olbiil Era Kelulau, the budget shall not provide for administrative expenses exceeding 20% of the estimated income for the fiscal year from contributions, civil penalties, interest, and dividend income on investments.

(2) "Administrative expenses" shall include salaries, wages and allowances, the cost of office supplies and equipment, operational expenses, and the maintenance of the office, but does not include capital expenses.

Section 18. Establishment of the Retirement Fund.

(1) There is hereby continued within the 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 19. Payments into the Fund.

The following shall be paid into the Retirement Fund:

(1) all contributions; and
(2) all civil penalties and interest; and
(3) all gifts and donations; and
(4) all proceeds from the investment of money from Fund; and
(5) all proceeds from the sale of assets of the System; and
(6) any money transferred from the Trust Territory Social Security Retirement Fund to the Fund; and
(7) any money transferred from the Prior Service Trust Fund to the Fund.

Section 20. 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 21. Investment.

(1) Investment of Fund.

(a) The Republic of Palau Social Security Trust Fund shall consist of funds or assets transferred from the Trust Territory Social Security Retirement Fund or the Prior Service Trust Fund, employee tax receipts, employer tax receipts, penalties and interest collected, gifts, donations, and fund transfers authorized by law, plus interest and earnings from the investment of fund, less benefit payments and expenses incurred in the operation of the System.

(b) The reserves of the Fund in excess of the requirements for current operations shall be invested and reinvested by or under the authority of the Board which shall ensure the greatest return
commensurate with sound financial policies.

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

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

(e) The Board may commingle securities and monies, subject to the crediting of receipts and earnings and charging of payments to the appropriate accounts established by this Act.

(f) No member of the Board and no employee of the Board, nor anyone in the immediate family of such member or employee, shall have any direct or indirect interest in the income, gains or profits on any investment made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment made by the Board. Participation in the Fund under the terms of this Act shall not be construed to include interest, pay or emolument within the meaning of this subsection.

(g) No member, employee or agent of the Board, nor any person in the immediate family of such member, employee or agent, shall become an endorser or surety or in any manner an obligator of investments made by the Fund, nor shall any member, employee or agent be held liable for actions taken in good faith and in performance of his or her duties.
(h) Investments may be held in bearer form, or may be registered either in the name of the Fund or the nominee of the custodian.

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

(2) Custodian of Fund.

The Board shall engage one or more fund custodians to assume responsibility for the physical possession of Fund assets or evidence of assets. The custodian shall submit such reports, accountings and other information in such form and at such times as requested by the Board. All costs incurred for custodial services shall be paid from the Fund. The custodian shall hold all assets for the account of the Fund and shall act only upon the instructions of the Board, its administrator, or a member, committee or agent so authorized by the Board. No custodian shall be engaged unless it:

(a) Is a United States Bank or Trust Company regulated by the Federal Reserve Board, a state authority or the federal comptroller of the currency as appropriate,

(b) Has a net worth in excess of $10 million,

(c) Is a member of the Depository Trust Company I.D. System,

(d) Has at least ten years experience as a custodian of financial assets, and

(e) Has at least $1 billion in custodial assets.

(3) Investment Agent for the Fund.

(a) In order to secure expert advice and counsel, the Board may engage one or more investment agents which shall be an investment counsel as hereinafter qualified. All costs incurred in this connection shall be paid from the Fund.
(b) No person, firm or corporation shall be eligible for employment as investment counsel which acts as principal for its own account or as broker for a client other than the Fund in connection with the sale of any security to or the purchase of any security from the Fund.

(c) No investment counsel shall be engaged unless:

(1) The principal business of the person, firm or corporation selected by the Board consists of rendering investment supervisory services, that is the giving of continuous advice as to the investment of funds on the basis of the individual needs of each client; and

(2) The person, firm or corporation and its predecessors have been continuously engaged in such business for a period of 5 or more years; and

(3) The person, firm or corporation is registered as an investment advisor under the laws of the Republic of Palau or of the United States of America as from time to time are in effect; and

(4) The person, firm or corporation certifies, in writing, to the Board, that the assets under its direct investment supervision are in excess of $200 million,

(5) The contract between the Board and the investment counsel is of no specific duration and is voidable at any time by either party after 30 days notice is given.

(d) The Board or its designee may from time to time change operating arrangements with the investment agent in order to facilitate efficient management and timely investment action.

(e) Subject to Subsection (4) of this Section, no investment shall be made unless in the opinion of the investment agent it is an
appropriate investment for the Fund and is an authorized investment
under the provisions of this Act or, in the absence of such opinion,
unless preceded by a resolution of the Board directing the investment.

(4) Authorized Investments.

Investment may be made in:

(a) Government Obligations. Obligations issued or guaranteed as
to principal and interest by the Republic of Palau National Government
or by the United States Government, provided that the total market
value of the investment in obligations guaranteed by the Republic of
Palau National Government shall at no time exceed twenty-five percent
(25%) of the total market value of all investments of the System, and
further provided that the principal and interest on such obligations
are payable in currency of the United States.

(b) Corporate Obligations and Mortgage Backed Securities.
Obligations of any public or private entity or corporation created or
existing under the laws of the Republic of Palau or the United States
or any state or territory thereof, or obligation of any other
government or economic community which are payable in U.S. dollars,
and other mortgage backed securities provided that:

(1) the obligation is of an agency of the U.S. Government
or;

(2) the obligation is rated in one of the four highest
categories by two nationally recognized rating agencies; and

(3) no investment under this heading exceeds five percent
(5%) of the market value of the fund or ten percent (10%) of the
outstanding value of the issue at the time of purchase.

(c) Preferred and Common Stock. Shares of preferred or common
stock of any corporation created or existing under the laws of the
Republic of Palau or under the laws of the United States or any state
or territory thereof, provided that:

(1) the purchase of such shares shall be considered reasonable and prudent by the investment agent at the time of purchase;

(2) not more than five percent (5%) of the market value of the Fund would be invested in the stock of any one corporation; and

(3) not more than ten percent (10%) of the market value of the Fund would be invested in any one industry group.

(d) Insurance Company Obligations. Contracts and agreements supplemental thereto providing for participation in one or more accounts of a life insurance company authorized to do business in the Republic of Palau or in any state or territory of the United States, including its separate accounts, and whether the investments allocated thereto are comprised of stocks or other securities or of real or personal property or interest therein.

(e) Interests in Real Property. Interests in improved or productive real property in which, in the informed opinion of the Board, it is prudent to invest funds of the System; provided that the total market value of these investments at no time shall exceed twenty-five percent (25%) of the total market value of all investments of the System. For purposes of this subsection, "real property" includes any property treated as real property by law, including any improvements thereto. Investments in improved or productive real property may be made directly or through pooled funds, including common or collective trust funds of banks or trust companies, group or unit trusts, limited partnership, investment trusts, and other pooled funds invested on behalf of the System by investment managers retained by the System.
(f) Other Obligations and Securities. Other obligations and
securities in which in the informed opinion of the Board it is prudent
to invest funds of the System, whether or not the securities or stock
are expressly authorized by or qualify under the foregoing paragraphs;
provided that the total market value of investments under this
subsection shall at no time exceed ten percent (10%) of the total
market value of all investments of the System.

Section 22. Self-Employed Persons.

(1) A self-employed person shall be presumed to be both his own
employer and his own employee, and accordingly is liable to pay to the
System with respect to himself for both employer contributions and employee
contributions, and shall include himself in reports under Section 26.

(2) A self-employed person who has, in a given quarter, at least one
employee who receives remuneration from him, shall be presumed to receive in
any quarter, as remuneration, twice the amount paid to his highest-paid
employee in that quarter.

(3) A self-employed person who has, in a given quarter, no employee
who receives remuneration from him, shall be presumed to receive in any
quarter, as remuneration, twenty-five percent (25%) of his gross revenue in
the preceding calendar year.

(4) Notwithstanding the foregoing, a self-employed retail merchant
with no employee who receives remuneration from him and with less than ten
thousand dollars ($10,000) of gross revenues in the preceding calendar year
or a person working as a farmer, fisherman, or taxi driver, shall have the
option to be covered by this Act, provided that he reports a minimum of
three hundred dollars ($300.00) in remuneration each quarter.

Section 23. Maximum Remuneration.

The maximum amount of remuneration received during a quarter from one
employer by any one employee upon which contributions must be deducted and
contributed to the Retirement Fund is three thousand dollars ($3,000.00).

Section 24. Employee Contributions.

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

(a) with respect to remuneration paid from 1 July 1991 through 30 September 1991 - three percent (3%),

(b) with respect to remuneration paid from 1 October 1991 through 30 September 1996 - four percent (4%),

(c) with respect to remuneration paid from 1 October 1996 through 30 September 2001 - five percent (5%),

(d) with respect to remuneration paid after 30 October 2001 - six percent (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 25. Employer Contributions.

An employer shall contribute to the Social Security Administration amounts equal to the following percentage of the remuneration paid by him or, in the case of a self-employed person to whom Section 22 applies, deemed to have been paid to him:

(1) with respect to remuneration paid or deemed to have been paid from 1 July 1991 through 30 September 1991 - three percent (3%),

(2) with respect to remuneration paid or deemed to have been paid from 1 October 1991 through 30 September 1996 - four percent (4%),

(3) with respect to remuneration paid or deemed to have been paid from 1 October 1996 through 30 September 2001 - five percent (5%).
(4) with respect to remuneration paid or deemed to have been paid
after 30 October 2001 - six percent (6%).

Section 26. Reports and Payment of Contributions.

(1) Each employer shall report quarterly, on an official form, to the
Social Security Administration and pay all amounts of contributions due at
the end of each quarter.

(2) The official form shall 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 28.

Section 27. Refunds.

(1) If an employee contributes on total remuneration in excess of the
maximum remuneration defined in Section 23, whether from one or more
employers, and his employee contributions are withheld and paid to the
Social Security Administration, the excess employee contributions during the
four quarters ending on December 31st shall be refunded by the
Administration to the employee within 90 days after that date.

(2) No refund shall be made of an amount less than five dollars
($5.00).

(3) No refund shall be made to any employer on any amount of excess
employer contributions paid by him, other than to correct an error.

Section 28. Employer Account Numbers and Social Security Cards and
Numbers. 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.

Section 29. Basic Benefit Formula.

(1) The "Basic Benefit" means a monthly payment of one-twelfth (1/12)
of the total of:
(a) 16.5% of the first $11,000 of cumulative covered earnings; and
(b) 2.7% of cumulative covered earnings in excess of $11,000 but not in excess of the next $33,000; and
(c) 1.33% of cumulative covered earnings in excess of $44,000.

(2) "Cumulative Covered Earnings" means remuneration on which employee contributions have been made.

Section 30. Types of Benefits.

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

(a) old age insurance benefit, in accordance with Section 31; and

(b) disability insurance benefit, in accordance with Section 32; and

(c) surviving spouse's insurance benefit, in accordance with Section 33; and

(d) surviving child's insurance benefit, in accordance with Section 34; and

(e) lump sum benefit, in accordance with Section 36.

(2) No person may receive two types of benefits at the same time and must elect, by written notice to the Social Security Administrator, which benefit he prefers to receive.

(3) Until an election is made, the person concerned shall receive whichever of the benefits, in the opinion of the Social Security Administrator, is most beneficial to that person.

Section 31. Old Age Insurance Benefit.

(1) A person who is fully insured and has attained the age of 60 years and retired is entitled to a monthly old age insurance benefit, beginning with the month in which that person became so entitled and 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 forty seven dollars and fifty cents ($47.50).

(3) If a person who is receiving an 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 32. Disability Insurance Benefit.

(1) Subject to Section 40, a person who is disabled and was at the time of the onset of the disability both fully and currently insured, is entitled to a monthly disability insurance benefit, beginning with the month in which that person became so entitled and ending with the month before the month in which he dies or recovers from the disability, whichever first occurs, subject to the earnings test.

(2) Subject to subsections (3) and (4), the monthly amount of the benefit is the basic benefit, with a minimum monthly benefit per month, forty-seven dollars and fifty cents ($47.50).

(3) If the person is receiving a periodic workmen's compensation benefit, the disability insurance benefit shall be reduced in any month by the amount in which the total of the workmen's compensation benefit plus the basic benefit exceeds eighty percent (80%) of one-twelfth (1/12) of the highest annual remuneration on which contributions were made in the period consisting of the year in which the disability occurred and the preceding five years.

(4) If a workmen's compensation benefit was computed to a lump sum, it shall be treated as if the periodic benefit which was originally payable was in fact paid.
Section 33. Surviving Spouse's Insurance Benefit.

(1) Subject to Section 32, the surviving spouse of a person who has died fully or currently insured is entitled to a monthly survivor's insurance benefit, beginning with the month in which the surviving spouse became so entitled and ending with the month preceding the month in which the surviving spouse dies or re-marries, subject to the earnings test.

(2) Subject to Subsection (3), the monthly amount of the benefit is sixty percent (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 34. 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, beginning with the month in which the surviving child became so entitled and ending with the month preceding the month in which the child:

   (a) subject to Subsection (2), attains the age of 18 years; or
   (b) marries; or
   (c) is adopted.

(2) Notwithstanding Subsection (1)(a), but subject to Subsections (1)(b) and (1)(c):

   (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 40, if a child is disabled before the attainment of the age of 22 years, the benefit is payable during the disability.

(3) Subject to Section 36, the monthly amount of the benefit is
fifteen percent (15%) of the amount of the basic benefit applicable to the
deceased at the time of his death.

(4) The Board may issue rules and regulations which prescribe criteria
for determining whether a person is a bona fide student.

Section 35. 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 31(3).

(2) The minimum amount of the total of a survivor’s insurance benefit
is forty-seven dollars and fifty cents ($47.50) per month, computed before
the application of Section 33(3).

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

Section 36. Lump Sum Benefits.

If after an employee contributor dies and all rights to survivor’s
insurance benefits with respect to him have been terminated, a lump sum
benefit equal to four percent (4%) of his cumulative covered earnings, less
the amount of the benefits actually received by the employee contributor, if
any, shall be paid:

(1) to the spouse; or

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

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

(4) if there is no surviving spouse, child or parent, to the duly
appointed legal representative of the deceased; or
(5) If none of the preceding paragraphs apply, to the persons entitled to it under the laws and customs of the last domicile of the deceased.

Section 37. Overpayment and Underpayment.

(1) Subject to Subsections (2) and (3), any overpayment or underpayment 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 overpayment or underpayment, 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 overpayment.

(5) Nothing in this section affects the liability of an employee contributor or his estate for, or his right of his estate to, any amount of an overpayment or underpayment that is not adjusted in accordance with this section.

Section 38. Payments to Non-Citizens Overseas.

(1) Unless modified by a totalization or bilateral agreement, no more than six (6) months of benefit payments under this Act shall be paid to any beneficiary who is not a citizen or national of the Republic while the beneficiary is outside of the Republic; provided, however, payments shall be made to citizens and nationals of the Federated States of Micronesia and the Republic of the Marshall Islands as if they were citizens or nationals of the Republic, if the Federated States of Micronesia and Republic of the
Marshall Islands, respectively, extend reciprocal benefits to citizens of the Republic of Palau.

(2) Notwithstanding any other provisions of this Act, this Act shall not operate to reduce or otherwise impair the benefits being paid to the beneficiaries on the day before the effective date of this Act.

Section 39. The Earnings Test. The "earnings test" means a test to determine whether the person who is receiving the benefit is retired or otherwise dependent on the Social Security benefit. The maximum amount of remuneration that a person may earn and still remain entitled to a full benefit is five hundred dollars ($500.00) during any quarter. The person who is receiving the benefit shall have his benefit reduced by one dollar ($1) for each three dollars ($3) of wages earned during a quarter in excess of five hundred dollars ($500.00). The reduction shall be applied in the quarter immediately following the quarter in which the wages were earned.

Notwithstanding the foregoing, the earnings test will not be applicable in the quarter in which the person who is receiving the benefit attains age 65, or in any subsequent quarter.

Section 40. Evidence of Disability.

(1) Before continuing the payment of a surviving child's insurance benefit to or on behalf of any person in accordance with Section 34(2)(b) or granting eligibility for disability insurance benefits, the Social Security Administrator may require the person concerned to undergo a medical or other examination or test or to provide other evidence, to the satisfaction of the Social Security Administrator, as to the disability.

(2) 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 to verify the continuance of the disability.

(3) It is the responsibility of the payee to advise the Social Security Administrator immediately when the disability ceases.
Section 41. 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.

Section 42. 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 twelve (12) months or a fine of not more than $2,000.00 or both.

Section 43. Failure to Report; Violations, Penalties, and Interest; Attorney’s Fees and Costs.

(1) An employer who fails to report any amount of remuneration paid or fails to pay any amount of contributions due to the System is liable for a civil penalty, at the discretion of the Board, of not more than one hundred percent (100%) of the amount of any contributions withheld or two hundred fifty dollars ($250.00), whichever is greater.

(2) An employer who knowingly fails to report any amount of remuneration paid or knowingly fails to pay any amount of contributions due to the System is, in addition, guilty of a misdemeanor and is liable for a fine of not more than two thousand dollars ($2,000.00).
(3) If any contribution or penalty imposed by this Act is not paid on
or before the date prescribed for such payment, there shall be collected, in
addition to such contribution and penalty, interest on the unpaid balance of
the contribution or penalty at the rate of twelve percent (12%) per annum
from its due date until the date it is paid. In the event that any
contributions, interest, or penalty due under this Act is referred to an
attorney for collection, whether or not suit is brought for the collection
thereof, the employer shall additionally be liable for reasonable attorney's
fees and costs of collection, including court costs.

(4) The amount of any civil penalty, interest, attorney's fee or cost
of collection shall be paid to the Retirement Fund.

Section 44. Secrecy.

If a member of the Board, or any person employed for the purpose 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 Act or any
(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.

Section 45. 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 46. Totalization Agreements.

(1) The Board shall prepare recommendations for the President of
countries with which totalization agreements should be obtained. The Board
shall provide the technical assistance necessary to prepare such agreements
with those countries.
(2) Totalization agreements adopted by the Republic of Palau pursuant

to procedures outlined in the Palau National Code shall have the weight of

law and shall be administered by the Board as part of this Act.

(3) The Board shall issue rules and regulations necessary to

administer the totalization agreements.

Section 47. 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 48. 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 49. Service on the Administration, etc. Any process or other

document required or permitted by this Act or any other law to be served on

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 50. 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 Olbiil Era Kelulau on

its operations and the functioning of the Social Security System during the

fiscal year, and on the condition of its fund.

(2) The Board may at any other time make a report to the President and

the Olbiil 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.

Section 51. Lien for Contributions. All contributions, including

penalties, interest accrued, and attorney's fees thereon, imposed or
authorized under this Act shall be a lien upon any property of the employer,

having priority over all other claims and liens including liens for other
taxes, and may be collected by levy upon such property in the same manner as
the levy of an execution.

Section 52. Retroactive Benefit Payments. Notwithstanding any other

provision in this Act, in the event that a person is eligible for benefits

from the Social Security System but does not apply for those benefits or

otherwise informs the Administrator that the person is eligible for

benefits, the maximum period for which benefits shall be paid retroactively

preceding the date of application for benefits is twelve (12) months.

Section 53. Prior Service Trust Fund. Notwithstanding any other

provision of law, the provisions of Title 41 of the Palau National Code

pertaining to the Prior Service Trust Fund and any benefits derived

therefrom shall continue in full force and effect.

Section 54. Division of Revenue and Taxation.

(1) Notwithstanding any other provision of law, upon the request of

the Administrator, the Division of Revenue and Taxation shall provide wage

record information to the Social Security System for use in determining

compliance with the provisions of this Act. The Administrator shall

maintain the strictest security with this information and shall not release

the information under any circumstances.

(2) Notwithstanding any other provision of this Act, upon the request

of the Chief of the Division of Revenue and Taxation, the Administrator

shall provide wage record information to the Division of Revenue and

Taxation for use in determining compliance with the provisions of the

Revenue and Tax Act. The Chief shall maintain the strictest security with

this information and shall not release the information under any

circumstances.

Section 55. Mismanagement of Fund. Any person who has a fiduciary
relationship with the Fund and who is found guilty of mismanagement of the
Fund, whether by malfeasance, shall be guilty of a felony and is liable to
imprisonment for a period not to exceed fifteen (15) years or a fine of not
more than one hundred thousand dollars ($100,000) or both.

Section 56. Severability. If any provision of this Act or
application thereof to any person or circumstance is held invalid, the
invalidity does not affect other provisions or applications of the Act which
can be given effect without the invalid provision or application; and to
this end the provisions of this Act are severable.

Section 57. Amendments.
(1) Subsections (1) and (6) of Section 10 of APPL No. 2-29 are amended
as follows:

Section 10. Membership of the Board and Compensation.
(1) 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.

(6) Members of the Board shall be compensated according to the
rate set by law.

(2) Section 12 of APPL No. 2-29 is amended as follows:

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 shall determine.

(4) The Board shall 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.

(5) 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 both houses of the
Dltill Era Keilulau.

(6) Notwithstanding the foregoing, the Board shall be authorized
to maintain a bank overdraft for the normal operation of the System.

Section 59. Effective Date. This Act shall take effect upon its
approval by the President of the Republic of Palau, or upon its becoming law
without such approval except as otherwise provided by law.

Passed: October 28, 1991

Approved this 29th day of November, 1991.

[Signature]
Ngerulmok Etpisch, President
Republic of Palau