

Water Abstraction Act, RPPL No. 9-19 2013

PALAU

An Act to empower the Environmental Quality Protection Board to regulate the abstraction of water, and for other related purposes.

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

Section 1. Title. This Act shall be known as and may be cited as "The Water Abstraction Act."

Section 2. Legislative Findings. The Olbiil Era Kelulau hereby finds that the effective management and conservation of the water resources in the Republic of Palau is vital to the economy, health, and environment of the Republic. The Olbiil Era Kelulau further finds that amendments to the Environmental Quality Protection Act (codified in Title 24 of the Palau National Code) shall facilitate a more effective management and regulatory regime relating to the water resources of Palau through the formulation and implementation of a National Water Resources Management Plan, and appropriate controls over the utilization of the water resources. All entities that abstract water from any source shall be monitored by the Environmental Quality Protection Board in order to protect the environment from the over drafting of water.

Section 3. Amendment. Section 129 of the Environmental Quality Protection Act, codified in Title 24 of the Palau National Code is hereby amended to state as follows:

"§ 129. Powers and duties.

(a) . . .

(b) . . .

(c) The Board shall establish and provide for the continuing administration of a permit system, whereby persons who abstract fresh water from a reservoir, lake, stream, waterfall, river, well, bore, and any other natural source of water in the Republic of Palau may do so only in accordance with the provisions of a National Water Resources Management Plan approved by the adoption of a Joint Resolution of the Olbiil Era Kelulau.

(1) The National Water Resources Management Plan shall confirm that priority for water abstractions shall be given to water used for the supply of water and sanitation services to the general public, and shall ensure that overdrafts of water from any water source shall not occur. Palau Public Utilities Corporation shall be given priority for water abstractions.

(2) The Board shall develop a procedure regarding the issuance, modification, suspension, revocation, and termination of such permits.

(3) No person or entity shall be exempt from the permitting process for the abstracting of water, except that the Environmental Protection Quality Board may, by regulation, prescribe a level below which a subsistence level of drafting of water is permissible without a permit for subsistence level living.

(4) The Board shall monitor and ensure that any water abstraction that takes place under a valid permit does not result in the over drafting of a water source such that the water source is unacceptably reduced below a level specified by the Board in conformity with the National Water Resources Management Plan.

(5) The Board shall develop regulations for standards of quality for water and wastewater in compliance with the National Water Resources Management Plan.

(6) The Board shall develop regulations for abandonment of water sources that have been decommissioned.

(d) . . .

(e) . . .

(f) . . .

(g) . . ."

Section 4. Amendment. Section 143 of Title 24 of the Palau National Code is hereby amended as follows:

"§ 143. Same; environmental impact statements.

(a) . . .

(b) . . .

(c) Whether or not an action requires an environmental impact statement, the applicant shall pay a non-refundable Environmental Impact Fee. The Environmental Impact Fee shall be paid within thirty days after the applicant has obtained all necessary permits to commence an action, but prior to the

commencement of any construction relative to the action. The Environmental Impact Fee shall be paid by check, payable to the National Treasury of the Republic of Palau, and shall be assessed at the greater of the rates as follows:

(1) A rate based on the estimated construction cost of a project based on the following schedule:

(A) \$0, when the estimated cost of the project is less than or equal to \$50,000;

(B) \$20, when the estimated cost of the project is greater than \$50,000 and less than or equal to \$100,000;

(C) \$250, when the estimated cost of the project is greater than \$100,000 and less than or equal to \$500,000;

(D) \$500, when the estimated cost of the project is greater than \$500,000 but less than or equal to \$1,000,000;

(E) a rate of 0.15% of the estimated cost of the project when the estimated cost of the project is greater than \$1,000,000; or

(2) A fee which is generated by the Board based on an examination of the project's environmental impact statement.

(d) No Environmental Impact Fee will be charged to the national or state government for projects that are financed entirely with national or state government funds, including Palau Public Utilities Corporation. Where a project is a joint venture between the national government or state government and a third party, the project shall be subject to the Environmental Impact Fee, regardless of who applies for the Environmental Quality Protection Board permit."

Section 5. Amendment. 37 PNC § 411, as amended by RPPL No. 9-4, is hereby amended as follows:

"§ 411. Powers and responsibilities of PPUC.

(a) ...

(b) PPUC shall be responsible for the water and waste water operations of the Republic, which shall include the following powers and responsibilities:

(1) To acquire, store, treat, distribute, market, and otherwise supply water for any purpose;

(2) To collect, store, treat, market, and dispose of wastewater;

(3) To undertake, maintain, and operate any works, system, facilities, apparatus or equipment required for any purpose referred to in subparagraph (1) or (2);

(4) To use its expertise and resources to provide consultative, advisory, or other services that will earn sufficient revenue in order to fund its operating costs, production costs, and full recovery of the cost of its capital;

(5) To develop and turn to account any technology, software, or other intellectual property that relates to a function referred to in subparagraph (1), (2), or (3); and

(6) To manufacture, market, and sell, any product to its consumers that relates to a function referred to in subparagraph (1), (2), or (3);

(7) To undertake actions, including policies, procedures, standards, codes of practice and practice directions relating to any work intended to form part of, or to

be directly or indirectly connected to any systems or works of the PPUC in providing water and waste water services that will earn sufficient revenue in order to fund its operating costs, production costs, and full recovery of the cost of its capital;

(8) To exercise the powers provided by the Underground Utility Damage Prevention Act (37 PNC § § 501-511) as operator of the water and waste water systems, and exercise the rights and powers vested in the Director of Public Works under the Sewer Use Act (34 PNC Chapter 12);

(9) PPUC shall establish and implement a structure of rates for its water and waste water services and facilities calculated to ensure that adequate and equitable charges are imposed for its services;

(10) To comply with all regulatory requirements set forth by the Environmental Quality Protection Board in accordance with the provisions of the National Water Resources Management Plan and existing laws and regulations, including those regarding water abstraction, water quality, and water level measurements; and

(11) To take regular periodic measurements of the water quantity at each source from which it abstracts water, and shall share all measurements of water quantity with the Environmental Quality Protection Board to enable the Environmental Quality Protection Board to monitor and permit water abstraction."

Section 6. Amendment. 24 PNC § 124 is amended as follows:

"§ 124. Same; compensation of members.

Members who are not state or national government employees shall be compensated at \$50 per day for those days during which they are engaged in the business of the Board. Board members shall also receive a stipend of \$50 for meetings held outside regular working hours. Members of the Board who are state or national government employees shall receive no compensation from the Board except when meetings are held outside regular working hours. All members shall be entitled to receive reasonable travel costs and per diem at established national government rates when traveling on the business of the Board. Any employee of the national or state governments shall be granted administrative leave while engaging in the performance of the duties of the Board."

