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ELEVENTH CONGRESS OF THE FEDERATED STATES OF MICRONESIA

FIRST SPECIAL SESSION, 1999

C.B. NO. 11-67

A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by further amending section 164, as amended by Public Laws Nos. 9-155, 10-62 and 10-96 and by further amending section 509, as enacted by Public Law No. 9-155 and as amended by Public Laws Nos. 10-62, 10-118 and 10-151, to provide for overtime compensation for all public employees upon approval by authorized officials; to make other clarifications more certain regarding overtime, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Section 164 of title 52 of the Code of the Federated
2 States of Micronesia, as amended by Public Laws Nos. 9-155, 10-62 and
3 10-96 is hereby further amended to read as follows:

4 "Section 164. Differentials. To compensate for unusual
5 circumstances of employment which create hardships for
6 public service employees, the following differentials are
7 provided for them; provided that in no case may an
8 employee receive differentials under both subsections (1)
9 and (2) of this section:

10 (1) Night work differential. An employee whose
11 tour of duty includes regularly scheduled hours
12 falling between 7 p.m. and 6 a.m. shall be paid a
13 differential of fifteen percent of the adjusted base
14 salary for all hours falling within that period.

15 (2) Hazardous work differential. An employee whose
16 position entails unusual and extreme hazards to his health
17 or safety shall be paid a differential of twenty-five
18 percent of the adjusted base salary for all hours in which
19 hazardous work is performed.

20 (3) Overtime [~~differential~~]compensation. Any employee
21 is eligible to receive overtime compensation for excess
22 hours worked upon approval by the head of his or her
23 department or agency, or in the case of the Judiciary or
24 the Legislature, by the Chief Justice or his or her
25 designee or the Speaker of the Congress or his or her

1 designee. An employee shall receive overtime compensation
2 at the rate of straight time; provided, however, that if
3 [if] an employee is eligible to receive overtime
4 compensation under section 509 of title 52, he shall be
5 paid overtime compensation at the rate of time and one-half
6 of his adjusted base salary for [all time when he] excess
7 hours. For purposes of this title, 'excess hours' are
8 hours that an employee is directed to work and does work in
9 excess of eight hours in one day; or when he is directed to
10 work and does work on the sixth or seventh day of the work
11 week; provided that he has first worked forty hours at
12 straight time in the same work week; [and] provided
13 further, that overtime work performed on a holiday shall be
14 subject to subsection (4) of this section; and provided
15 further, that hours worked while on Government-authorized
16 travel for which the employee is entitled to per diem shall
17 not be considered excess hours for purposes of calculating
18 entitlement to overtime or compensatory time.

19 (4) Holiday differential. An employee who is required
20 to work on a legal holiday shall be compensated at double
21 his adjusted base salary for all such hours worked.

22 (5) Typhoon emergency differential. Employees who are
23 required to work in a location and during a period in
24 which a typhoon or other natural catastrophe has been
25 declared by competent authority, and in which other

1 Government employees are released from work because of
2 such conditions, shall be compensated for the hours
3 worked while such emergency remains in force at the rate
4 of two and one-half times the adjusted base salary. The
5 differential provided in this subsection shall not limit
6 the employee's right to any other differential or
7 allowance to which he may otherwise be entitled by law or
8 regulations.

9 (6) Sea duty differential. An employee of the Maritime
10 Wing of the National Police shall be paid his adjusted
11 base salary plus a differential of ten percent of his
12 adjusted base salary for all hours actually worked, up to
13 but not in excess of eight hours per day, in any day or
14 fraction thereof, including the sixth and seventh day of
15 the work week, that he is on duty at sea. No
16 compensation, regular or overtime, no differential of any
17 sort, and no compensatory time shall be due for any
18 additional hours worked in any such day, regardless of
19 how many hours the employee was actually required to work
20 in that day. Hours actually worked while at sea, up to
21 but not in excess of eight hours per day, shall count as
22 straight time hours for the purpose of determining
23 compensatory time, if any, in a work week spent partially
24 at sea and partially not at sea. The holiday
25 differential shall apply in lieu of the sea duty

1 differential while at sea on a holiday. The hazardous
2 work differential shall apply in addition to the sea duty
3 differential while at sea, provided that being at sea
4 does not in and of itself constitute hazardous work. The
5 typhoon emergency differential shall not apply while at
6 sea."

7 Section 2. Section 509 of title 52 of the Code of the
8 Federated States of Micronesia, as enacted by Public Law No. 9-155
9 and as amended by Public Laws Nos. 10-62, 10-118 and 10-151, is
10 hereby further amended to read as follows:

11 "Section 509. Freeze on salary increases; compensatory
12 time and overtime compensation. Notwithstanding any
13 other applicable law, there is hereby enacted:

14 (1) A freeze on annual salary step increases of all
15 employees in the public service system; and

16 (2) Compensatory time, with which employees in the
17 public service system [~~shall~~] may, at the discretion of
18 the head of his or her department or agency, or in the
19 case of the Judiciary or the Legislature, by the
20 discretion of the Chief Justice or his or her designee or
21 the Speaker of the Congress or his or her designee, be
22 credited in lieu of receiving overtime compensation as
23 otherwise authorized under the National Public Service
24 System Act and regulations promulgated thereunder.
25 Compensatory time shall accrue [~~means those hours~~

1 ~~authorized in advance and worked by an employee outside~~
2 ~~established work hours and for which the employee is~~
3 ~~credited with] as one hour [in the form] of leave with~~
4 ~~pay for each excess hour worked [of work an employee is~~
5 ~~directed to work and performs in excess of the regular 40~~
6 ~~hour workweek as provided by law].~~ Compensatory time
7 shall be accrued by National Government public service
8 employees and shall be included in the compensation
9 received by a program participant pursuant to subsection
10 (4)(c) of section 506 of this chapter; except that any
11 accumulation of time in excess of 280 hours shall be
12 forfeited unless taken before the end of the calendar
13 year in which the excess was accumulated. For purposes
14 of computing whether a program employee's accrued
15 compensatory and/or annual leave hours are in excess of
16 280 hours, accrued compensatory time and annual leave
17 shall be included in computing the 280-hour ceiling.

18 (3) [~~Notwithstanding the provisions of this section,~~
19 ~~an] An employee shall be entitled to receive overtime
20 ~~[differential]~~ compensation at a rate of time and one-
21 half of his adjusted base salary, retroactive to the
22 effective date of Public Law No. 9-155, [~~as authorized~~
23 ~~under the National Public Service System Act,~~] for excess
24 hours worked:~~

25 (a) [~~time worked~~] in the event that the National

1 Government would be entitled to compensation for payment
2 of such [~~differential~~] overtime compensation under
3 section 115 of title 50;

4 (b) [~~time worked~~] in the event that the National
5 Government would be entitled to compensation for payment
6 of such [~~differential~~] overtime compensation through a
7 written agreement with a legal entity that seeks to
8 provide relief from emergency conditions, as long as the
9 time worked is directly related to efforts to provide
10 emergency relief, in accordance with an emergency
11 declared by the President under article X, section 9, of
12 the Constitution of the Federated States of Micronesia;
13 or

14 (c) [~~time worked~~] in the event that the National
15 Government would be entitled to compensation for payment
16 of such [~~differential~~] overtime compensation through a
17 written agreement with the Water Users Corporation, as
18 long as the time worked is directly related to management
19 and maintenance of the Capital Water System [~~or~~

20 ~~(d) [time worked] as follows:~~

21 ~~(i) by personnel within the Division of~~
22 ~~Budget in preparation of the annual budget submission in~~
23 ~~the thirty day period prior to April 1,~~

24 ~~(ii) by accounting personnel within the~~
25 ~~Division of Treasury in preparing the annual financial~~

