

A BILL FOR AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by adding a new section 419 relating to the implementation of the Infrastructure Development Plan; and to further amend section 204 of Title 32 exempting such activities from the foreign investment and labor laws, and for other purposes.

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

1 Section 1. A new Section 419 is added to chapter 4 of Title
2 55, as follows:

3 "Section 419. Implementation of Infrastructure
4 Development Plan.

5 (1) Notwithstanding any provision of law to the
6 contrary, the National Government shall have
7 jurisdiction, in coordination with the respective state,
8 over activities relating to any public contract that is
9 nor may be awarded for a civil works project to
10 implement any part of the Infrastructure Development
11 Plan and that is supported by funds provided through
12 Section 211 of the Amended Compact of Free Association,
13 as that Plan may be amended from time to time, including
14 but not limited to all contract management activities,
15 all bidding and pre-bidding procedures for such public
16 contracts, and all activities performed by any citizen
17 or noncitizaen contractor or subcontractor pursuant to

1 any such public contract. Except of this section, the
2 provisions of chapter 4 shall not apply to public
3 contracts referred to in this subsection.

4 (2) Notwithstanding section 205 of Title 32 of the
5 Code of the Federated States of Micronesia, no Foreign
6 Investment Permit shall be required to conduct any
7 activity referred to in subsection (1).

8 (3) The provisions of subchapter III and subchapter IV
9 of chapter 1 of Title 51 shall not apply to alien
10 workers employed exclusively on activities referred to
11 in subsection (1), and such workers shall not be deemed
12 nonresident for purposes of chapter 1 of Title 51.

13 (4) The President shall be responsible for
14 establishing procurement procedures specifically for use
15 with all public contracts referred to in subsection (1),
16 which shall

17 (a) meet or exceed prevailing international
18 standards for free and open competitive bidding,
19 transparency, and fairness to all parties,

20 (b) effectively and efficiently facilitate the
21 execution and implementation of public contract referred
22 to in subsection (1),

23 (c) protect resident workers, and

24 (d) protect the public interest.

25 Such procurement procedures shall take effect upon

1 adoption by the President in accordance with title 17 of
2 the Code of the Federated States of Micronesia.

3 (5) Any citizen taxpayer in the Federated States of
4 Micronesia may seek to enjoin a public contract referred
5 to in subsection (1) to the same extent and in the same
6 manner as such remedy is available to bona fide
7 unsuccessful bidders on the contract under the
8 procurement procedures established and approved by the
9 President pursuant to subsection (4).

10 (6) The courts of the Federated States of Micronesia
11 shall recognize and give full force and effect to the
12 dispute resolution methods established by the President
13 pursuant to subsection (4).

14 Section 2. Section 204 of chapter 2 of the title 32 of the
15 Code of the Federated States of Micronesia, as enacted by Public
16 Law No. 10-49, is hereby amended to read as follows:

17 "Section 204. Requirement that a foreign investor
18 obtain a Foreign Investment Permit.

19 A noncitizen may not conduct any activity in the FSM
20 that amounts to "engaging in business", as defined in
21 section 203 of this chapter, unless that noncitizen
22 holds a currently valid Foreign Investment Permit
23 authorizing that noncitizen to conduct that activity~~(-)~~,
24 except as provided in section 419 of chapter 4 of Title
25 55.

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Section 3. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 11/07/05

Introduced by: /s/Simiram Sipenuk
Simiram Sipenuk
(by request)

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