
A BILL FOR AN ACT

To authorize the President of the Federated States of Micronesia, or his designee, to execute a sovereign guarantee to secure an Asian Development Bank loan for the Pohnpei Port Development Project, and for other purposes.

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

1 Section 1. Purpose. The State of Pohnpei plans to upgrade
2 its port facilities in Dekehtik located in the Pohnpei
3 Transportation Zone. The facilities are managed and controlled by
4 the Pohnpei Port Authority (PPA), a Pohnpei State agency. The
5 total project cost is \$17.1 million proposed to be financed
6 through loans from the Asian Development bank (ADB). Of the total
7 project cost, \$4.5 million will be funded out of ADB's Ordinary
8 Capital Resources (OCR) and \$11.9 out of ADB's Special Fund (ADF).
9 Pohnpei State will be required to fund the remaining portion of
10 the project cost.

11 Section 2. Authorization to execute sovereign guarantee.
12 Pursuant to the authority to appropriate funds and to borrow money
13 on public credit under Article IX of the FSM Constitution,
14 Congress hereby authorizes the President, or his designee, to
15 execute a sovereign guarantee with the State of Pohnpei and the
16 Asian Development Bank guaranteeing repayment of the Pohnpei Port
17 Development Project loans.

18 Section 3. Authorization for appropriation. There is hereby
19 authorized to be appropriated out of the General Fund of the
20 Federated States of Micronesia the sum of not more than

1 \$16,400,000 to guarantee the repayment of the Pohnpei Port
2 Development Project loan.

3 Section 4. Terms of the guarantee. The guarantee shall be
4 executed upon such terms as may be set by the President of the
5 Federated States of Micronesia consistent with the provisions of
6 this act to include the following conditions:

7 (a) The State of Pohnpei is primarily responsible for
8 repayment of the Asian Development Bank loan.

9 (b) FSM National Government's obligation as guarantor
10 extends only to disbursements of the Asian Development Bank
11 Pohnpei Port Development Project loan after execution of an
12 appropriate guarantee agreement.

13 (c) FSM National Government's obligation applies only if
14 the State of Pohnpei is in default of its repayment obligations.

15 (d) The State of Pohnpei pledges its state revenues and
16 agrees to an offset of its national revenue in the event of
17 default by the State of Pohnpei.

18 (e) The State of Pohnpei provides full indemnity to the FSM
19 National Government whenever the latter becomes obligated to pay
20 under the guarantee.

21 (f) FSM National Government shall have subrogation rights
22 in the event it becomes liable under its guarantee.

23 Section 5. Duties of the Secretary of Finance. Upon default
24 of the State of Pohnpei on its payment obligations to the Asian
25 Development Bank, the FSM Secretary of Finance and Administration

1 shall submit to the President an appropriation bill for
2 consideration of Congress of the Federated States of Micronesia
3 for fulfillment of the sovereign guarantee.

4 Section 6. This act shall become law upon approval by the
5 President of the Federated States of Micronesia or upon its
6 becoming law without such approval.

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8 Date: 7/22/13

Introduced by: /s/ Florencio S. Harper
Florencio S. Harper
(by request)

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