

A BILL FOR AN ACT

To establish by the “Palau National Petroleum and Natural Resources Act” a statutory framework for the exploration for and development of the Republic’s petroleum energy reserves and natural resources; to create a public corporation to be known as the “Palau National Energy Authority”; to amend 24 PNC 129 and 169; to amend 40 PNC 1204, 1205, 1301, 1405, 1407, 1501, 1601; to provide funding for the operations of the Palau National Energy Authority; and for related purposes.

CONTENTS

	Page
CHAPTER 1 - GENERAL PROVISIONS & DEFINITIONS	1
Section 1. Short title	1
Section 2. Scope	1
Section 3. Legislative findings	1
Section 4. Purpose and intent	2
Section 5. Superseding nature of Act	3
Section 6. Definitions.....	
3 Section 7. Construction	4
CHAPTER 2 - PALAU NATIONAL ENERGY AUTHORITY	5
Section 8. Creation of Palau National Energy Authority; general provisions5	
Section 9. Board of Directors; duties, powers	6
Section 10. Same; membership; terms of membership	6
Section 11. Same; applicability of Ethics Code	7
Section 12. Same; quorum; meetings	7
Section 13. Same; compensation; travel	8
Section 14. Appointment of Executive Director; term of office; filling of vacancies	8
Section 15. Qualifications of Executive Director	9
Section 16. General duties of Executive Director	9
Section 17. Reporting duties of Executive Director	9
Section 18. Powers, duties, and functions of the PNEA	10

Section 19. Funding of the operations of the PNEA	13
CHAPTER 3 - AMENDMENTS	14
Section 20. Safeguards	14
Section 21. Amendments	14
CHAPTER 4 - EFFECTIVE DATE	17
Section 22. Effective date	17

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

1 CHAPTER 1

2 GENERAL PROVISIONS & DEFINITIONS

3 Section 1. Short title. This Act may be referred to as the “Palau National Petroleum
4 and Natural Resources Act.”

5 Section 2. Scope. This Act shall govern the exploration and possible development of
6 reserves of petroleum and natural resources, as petroleum and natural resources are defined in
7 this Act, in the Republic of Palau.”

8 Section 3. Legislative findings.

9 (a) No nation can be truly sovereign or independent if it lacks economic
10 independence. In order to achieve economic independence, a nation must establish and maintain
11 a diversified economy capable of generating revenue sufficient to sustain both the private sector
12 economy itself and government services at the level an independent nation expects and to which
13 it is entitled. Currently, the economy of the Republic of Palau is partly service-based and partly
14 dependent on foreign aid and loans; this economy does not create revenues sufficient to sustain
15 itself or to maintain and further develop government services in the future. In order to develop
16 economically toward the goal of becoming self-sustaining, Palau must diversify its economy in a
17 way that will result in greater production of value in the global market.

18 Strong evidence suggests that Palau may possess significant petroleum reserves within its
19 borders and ocean waters. The opportunity to develop these reserves could meaningfully
20 contribute to the economic diversification and expansion needed for Palau to generate revenue,
21 lessen its dependence on foreign grants, loans, and other forms of assistance, gain genuine
22 economic independence, and, at the same time, improve the quality of life for all citizens of
23 Palau. Pursuant to Article IX, Section 5 of the Constitution of the Republic of Palau, the Olbiil
24 Era Kelulau is responsible for the regulation of the ownership, exploration, and exploitation of
25 natural resources and the regulation of commerce with foreign nations and among the states.
26 Therefore, the Olbiil Era Kelulau hereby exercises that responsibility by creating and delegating
27 authority to the entity created by Chapter 2 of this Act in order to identify the potential for
28 development of petroleum exploration and extraction in Palau and, to the extent such potential

1 may be realized, guide and regulate the development and operation of the petroleum industry in
2 Palau.

3 (b) One of the most important and effective selling points for jurisdictions seeking to
4 attract entities to invest in, explore the potential for, or develop a petroleum sector is the
5 existence of a flexible, transparent, rational, and comprehensive legal, regulatory, and fiscal
6 regime applied in a consistent and predictable manner by a single authority. Therefore, if Palau
7 is to identify its petroleum reserves and explore the potential for developing such reserves, it
8 must create and maintain such a system.

9 (c) Heretofore existing laws of Palau are inadequate to support or control the
10 development of a petroleum sector in Palau. In addition, previously existing law that might be
11 interpreted to govern petroleum exploration and development activities in Palau may in fact tend
12 to discourage such exploration and development. Therefore, it is appropriate to enact a new
13 body of law to serve as the exclusive legal framework for petroleum exploration and
14 development in Palau.

15 Section 4. Purpose and intent.

16 (a) The purpose of this Act is to create a flexible, rational, comprehensive, exclusive,
17 and transparent system to encourage, support, guide, and govern the identification, exploration,
18 and, to the extent economically viable and environmentally sound, development of all existing or
19 naturally occurring petroleum reserves and other natural resources in the Republic of Palau.

20 (b) The intent of this Act is to further that purpose by creating a single entity having
21 exclusive authority to: (1) regulate all aspects of the creation, development, and operation of a
22 petroleum and/or natural resources sector in Palau; (2) serve as the primary point of contact and
23 coordinator of all interactions between and among the relevant agencies of the executive branch
24 of the national government, the various state governments, and any entity that either wishes to
25 conduct or is conducting activities or operations covered by this Act; and (3) otherwise, with
26 respect to operations or activities covered by this Act, serve as the single point of contact
27 between the Republic of Palau and each and any entity wishing to conduct or conducting
28 activities or operations covered by this Act and sole regulatory authority for activities or
29 operations covered by this Act.

1 Section 5. Superseding nature of Act. Consistent with the purpose and intent of this
2 Act, to the extent any provision of this Act or any action, opinion, decision, rule, or regulation of
3 the Palau National Energy Authority (“PNEA”) is inconsistent with any other provision of law,
4 rule, or regulation or any action, opinion, or decision of any body of the executive branch or any
5 state government, then the provision of this Act or action, opinion, decision, rule, or regulation
6 of the PNEA shall control, and supersedes the other provision, action, opinion, decision, rule, or
7 regulation to the extent (1) such other provision, action, opinion, decision, rule, or regulation is
8 inconsistent with the provision of this Act or action, opinion, decision, rule, or regulation of the
9 entity created herein and (2) such other provision, action, opinion, decision, rule, or regulation
10 deals directly and substantially with an activity or operation covered by this Act.

11 Section 6. Definitions. Unless otherwise required by context, the following terms are
12 defined as follows:

13 (a) “Authority” and “PNEA” mean the Palau National Energy Authority established
14 pursuant to chapter 2 of this Act.

15 (b) “Board” means the board of directors of the Authority.

16 (c) “Ethics Code” means the codified version of RPPL No. 5-32, or 33 PNC §§ 601-
17 614.

18 (d) “Executive director” means the individual appointed by the board to act as the
19 general manager and chief executive of the Authority.

20 (e) “Member” means (1) the Minister of Finance as an ex officio member of the
21 board or (2) anyone of the members of the board appointed by the President and approved by the
22 Olbiil Era Kelulau.

23 (f) “State member” means a member of the board has all the rights of members and
24 shall have all the duties of members but can be removed without cause. Also means a member
25 of the board appointed in the manner set forth in Section 9-10 who shall only have the power to
26 vote on PNEA regulated activities within that member’s own state lands or territorial waters.

27 (g) “Palau National Energy Authority” means the public corporation, as that term is
28 defined herein, created pursuant to chapter 2 of this Act.

29 (h) “Person” means any individual or entity, existing in any form, the existence of
30 which is recognized by law.

1 (i) "Petroleum" means:

2 (1) any naturally occurring hydrocarbons, whether in a gaseous, liquid, or
3 solid state; or

4 (2) any naturally occurring mixture of hydrocarbons, whether in a gaseous,
5 liquid, or solid state; or

6 (3) any naturally occurring mixture of one or more hydrocarbons, whether in
7 a gaseous, liquid, or solid state, and any other substance and includes any processed
8 petroleum, and any petroleum that has been returned to a natural reservoir.

9 (4) "Petroleum" does not include coal, shale, or any substance that may be
10 extracted from coal or shale.

11 (j) "Petroleum industry" and "petroleum sector" mean all activities and operations
12 associated with: (1) the exploration for petroleum reserves; (2) the identification and location of
13 petroleum reserves; (3) the production, extraction, development, storage, and distribution of
14 petroleum reserves; and (4) all related economic activities.

15 (k) "Public corporation" means an entity created for the administration of public
16 affairs by the national government, owned by the national government and governed by
17 managers deriving their authority from the national government, acting as an instrumentality of
18 the national government supported in part by public funds, while not being an agency or
19 department of the national government.

20 (l) "Natural Resources" means any oil, gas, minerals or any non-living resource of
21 national value or interest found or extracted out of the ocean or deep sea bed floor."

22 Section 7. Construction.

23 (a) "And" and "or" are used interchangeably herein and, consistent with the intent of
24 this Act, are to be construed so as to vest the broadest scope and greatest degree of flexibility in
25 the operation of the PNEA.

26 (b) "Any" and "all" are used interchangeably herein and, consistent with the intent of
27 this Act, are to be construed so as to give the broadest effect to the provisions in which those
28 words appear.

29 (c) "He" and "his" are not intended to refer solely to the masculine gender and are to
30 be construed as including the feminine gender.

1 CHAPTER 2

2 PALAU NATIONAL ENERGY AUTHORITY

3 Section 8. Creation of Palau National Energy Authority; general provisions.

4 (a) There is hereby created a public corporation to be known as the Palau National
5 Energy Authority (hereinafter “PNEA” or “Authority”) which shall operate in the form and
6 manner prescribed by this Act.

7 (b) The PNEA shall be subject to the corporate laws of the Republic of Palau to the
8 extent such laws do not conflict with this Act.

9 (c) The PNEA is exempt from all national taxes or fees other than employees’
10 contributions to the Social Security System and payments to the Civil Service Pension Plan
11 pursuant to 33 PNC 2030. The PNEA is exempt from all state government taxes, fees, laws,
12 regulations, or control. These exemptions shall not extend to wage and salary taxes payable by
13 employees, and business and other taxes payable by suppliers, and independent contractors of
14 PNEA, except as otherwise provided in this Act.

15 (d) The PNEA is not exempt from the Administrative Procedure Act, 6 PNC
16 Chapter 1.

17 (e) The PNEA is exempt from 40 PNC Chapter 6, Government Procurement. Before
18 any PNEA regulated activities are undertaken, including but not limited to soliciting and
19 accepting bids, the Authority shall have in place government procurement procedures in the
20 spirit of 40 PNC Chapter 6, which shall be promulgated in the manner procedures in the spirit of
21 40 PNC Chapter 1, except that 6 PNC § 125(d) shall not apply.

22 (f) In light of the public nature of the PNEA, all contracts and agreements between
23 the PNEA and any private entity are contracts and agreements with and performed for the benefit
24 of the national government; the private entity parties to such contracts and agreements are
25 exempt from the provisions of 28 PNC Chapter 1, the Foreign Investment Act.

26 Section 9. Board of Directors; duties, powers.

27 (a) The affairs of the PNEA shall be directed by a board of directors (hereinafter
28 “board”) which shall operate and conduct business in the manner set forth in this Act.

29 (b) The board shall not take any action unless such action is approved by a majority
30 of the members of the board. In the event that the board has an even number of individuals and

1 there is a deadlock among the individual members of the board, the executive director shall cast
2 the deciding vote.

3 (c) The board shall adopt policies, procedures, rules, and regulations which shall
4 govern the operations of the PNEA and the petroleum industry. The board shall oversee the
5 implementation and operation of such policies, procedures, rules, and regulations by the
6 executive director.

7 Section 10. Same; membership; terms of membership.

8 (a) The board shall consist of no fewer than five individual voting members, five of
9 whom shall be appointed by the President, subject to approval by joint resolution of the Olbil
10 Era Kelulau. In addition, the Minister of Finance shall be an ex-officio, non-voting member of
11 the board. The President shall make initial appointments of board members within 45 days after
12 the effective date of this Act. In addition, the governor of each state, or his representative in
13 which operations are proposed by submission of a bid or vote of the board or are being
14 conducted under a PNEA permit, shall be a state member (hereinafter “state member”) of the
15 board. This state member only has a vote with respect to bids, permits, or other PNEA regulated
16 activities that occur within the member’s state’s lands or territorial waters.

17 (b) In the absence of a confirmed Minister of Finance, the President of the Republic
18 shall appoint an interim member of the board who shall assume the duties of the Minister of
19 Finance with respect to the PNEA until the Minister of Finance becomes available. The initial
20 terms of two of the members shall be three years. The initial terms of the remaining members
21 shall be four years. Subsequent terms for all members other than the Minister of Finance shall
22 be four years. There is no limit to the number of terms a member may serve. Any state member
23 of the board shall serve at the discretion of the governor of the state which appointed such state
24 member, but in no event may a state member serve beyond the duration of a permit making that
25 person eligible for membership.

26 (c) Members other than the Minister of Finance may be removed by the President for
27 cause. For purposes of this section, “cause” shall be limited to failure to perform the duties
28 required of a member, conviction of a crime, failure to uphold the laws of the Republic, failure
29 to act diligently in his or her duties as a board member (including but not limited to failure to
30 attend meetings of the board), regardless of whether such failure is willful or inadvertent, and

1 any violation of the Code of Ethics Act, RPPL No. 5-32. State members may be removed for
2 any reason by the governor of the state which appointed such state member. The state member,
3 whether it be the governor or the governor's designee, may be removed by the board of directors
4 for failure to attend meetings of the board; if a state member is so removed, the speaker of the
5 legislature of that particular state automatically assumes the state membership until a new
6 governor is elected.

7 (d) Vacancies arising prior to expiration of any term of membership shall be filled by
8 appointment by the same entity which appointed the prior member; the person appointed to fill
9 the vacancy shall serve the duration of the unexpired term. All vacancies shall be filled within
10 forty-five (45) days of their occurrence.

11 Section 11. Same; applicability of Ethics Code. All members are "employees," as that
12 term is defined in RPPL No. 5-32, and are bound by the Code of Ethics Act. All members of the
13 PNEA board are prohibited from being employed or contracted by PNEA, in addition, board
14 members are prohibited from employment, contract, or consultation services by any PNEA
15 permit holder.

16 Section 12. Same; quorum; meetings.

17 (a) The board may only conduct business when a quorum is present. A quorum shall
18 consist of five (5) members. For purposes of establishing a quorum for regular meetings of the
19 board, members may attend via telephonic means. For purposes of establishing a quorum for
20 special meetings of the board, members must be physically present.

21 (b) The board shall organize itself and establish rules for the conduct of its business,
22 consistent with this chapter, within forty-five (45) days of its creation. As part of such
23 organization, the board will select one member to act as chairman and another member to act as
24 secretary and may create such other offices as it deems necessary. Offices other than chairman
25 and secretary may be filled by members or state members. Officers may be removed from office
26 at any time by a majority vote of the members.

27 (c) The board shall hold regular meetings at least once every three months according
28 to a schedule adopted by the board during its organizational meeting. Special meetings may be
29 called by the chairman of the board on his own initiative. Special meetings shall be called by the
30 chairman of the board at the request of any member or the executive director. Notice of a special

1 meeting shall be given to all members and state members at least twenty-four (24) hours in
2 advance of the meeting.

3 (d) Meetings may be held at any location the board deems appropriate.

4 Section 13. Same; compensation; travel.

5 (a) Members and state members who are neither employees nor elected officials of
6 the national government nor employees nor elected officials of any state government shall be
7 entitled to compensation at the rate of thirty-five (35) dollars per day spent on board business.
8 No member or state member who is an employee or elected official of the national government
9 or any state government shall be entitled to any compensation in addition to his or her national or
10 state government salary for efforts on behalf of the board, except that all members are entitled to
11 be reimbursed for necessary expenses incurred on behalf of the board.

12 (b) All members and state members may be allowed per diem at established national
13 government rates when traveling on PNEA business.

14 Section 14. Appointment of executive director; term of office; filling of vacancies.

15 The board shall appoint an executive director of the PNEA to administer the operations of the
16 Authority and shall set the executive director's compensation and benefits, duties consistent with
17 this chapter, and term of office. Compensation and benefits for the executive director shall be
18 commensurate with the duties and qualifications of the position and shall be set at a level
19 calculated to attract the best-suited individual for the position. Once appointed, the executive
20 director shall serve for the duration of his or her employment contract, or until removed from
21 office, provided that removal from office may only be for good cause by vote of a majority of
22 the members, or until the expiration of the thirty (30) day period immediately following any
23 tender by the executive director to the board of a notice of his resignation. After the initial
24 appointment of an executive director, any vacancy in the position of executive director shall be
25 announced and applications to fill the position shall be solicited beginning no later than five days
26 following the occurrence of the vacancy. The board shall use its best efforts to promptly appoint
27 the executive director and fill any vacancy in the executive director position.

28 Section 15. Qualifications of Executive Director. The executive director must be a
29 Palauan citizen or national and must have significant management experience.

1 Section 16. General duties of Executive Director. The executive director shall be
2 responsible for and shall conduct, either directly or through agents, employees, or
3 representatives, the management, administration, and operation of the PNEA pursuant to
4 policies, procedures, rules, or regulations set by the board. Such responsibility includes, but is
5 not limited to: (1) the development of model operating agreements or, at PNEA's discretion, a
6 collection of model clause alternatives to be inserted in operating agreements negotiated by
7 PNEA, covering all relevant aspects of activity under the respective type of operating agreement,
8 for each type of operating agreement provided for by this Act; (2) prior to the extraction of any
9 petroleum or natural resources, the development of a formula consistent with policies set by the
10 PNEA board, national government, and various state governments, which formula shall only be
11 effective if confirmed and authorized by the Olbiil Era Kelulau and each state (through
12 appropriate legal procedures of the applicable states) whose petroleum or natural resources are to
13 be explored, to share the funds received from bidders, permit holders, and permit operators
14 pursuant to this Act; (3) interaction and coordination with executive branch agencies when
15 PNEA's operations (or the operations of a permit holder or permit operator) directly and
16 substantially involve matters committed to the regulatory jurisdiction of such agencies; (4) the
17 submission of an annual budget for the approval of the board; and (5) the exercise of all powers
18 and functions of the PNEA not expressly retained by the board.

19 Section 17. Reporting duties of Executive Director. The executive director shall
20 report to the board according to the following schedule:

21 (a) at every regular meeting of the board the executive director shall report on
22 activities of the PNEA since the immediately preceding meeting and all operations under permits
23 issued pursuant to this Act;

24 (b) as requested by the board at any special meeting of the board;

25 (c) within twenty-four (24) hours of the beginning of any operations under a permit
26 issued pursuant to this Act the executive director shall inform the board of such occurrence;

27 (d) within twenty-four (24) hours of any amendment, suspension, revocation, or
28 termination of any operating agreement entered into, or permit issued, pursuant to this Act, the
29 executive director shall inform the board of the action taken and the reason for the action;

1 (e) within ten (10) days of any relinquishment or forfeiture by any means of any area
2 covered by an operating agreement entered into, or permit issued, pursuant to this Act, the
3 executive director shall inform the board of the relinquishment or forfeiture, the area
4 relinquished or forfeited, and the reason for the relinquishment or forfeiture; and

5 (f) as soon as possible after the occurrence of any significant unexpected event
6 arising in the course of operations under a permit issued pursuant to this Act, the executive
7 director shall inform the board of such event.

8 Section 18. Powers, duties, and functions of the PNEA.

9 (a) PNEA shall be the primary authority for the granting of permits for, and the
10 primary authority, working in conjunction with the appropriate national and state government
11 regulatory agencies responsible for regulation and monitoring of: any data acquisition in pursuit
12 of the development of petroleum reserves in Palau; any exploration of petroleum reserves or
13 natural resources in Palau; any development or production or extraction of petroleum reserves or
14 natural resources in Palau; and any storage or transportation of petroleum, gas, oil or other
15 natural resources developed, produced, or extracted pursuant to a permit. In exercising its
16 authority and performing its functions, PNEA shall consult with respective state governments
17 and national agencies, as well as appropriate agencies of the executive branch, specifically
18 including but not limited to the Environmental Quality Protection Board, the Bureau of Revenue,
19 Customs and Taxation, the Bureau of Public Safety, and the National Emergency Management
20 Office.

21 (b) With respect to any operations conducted pursuant to a permit issued under this
22 Act, the PNEA shall be the primary point of contact in Palau for the permit holder or permit
23 operator undertaking such activities and shall coordinate with the appropriate agency or agencies
24 of the executive branch to the extent the activities under the permit substantially and directly
25 involve matters committed to the regulatory jurisdiction of such agency or agencies.

26 (c) PNEA shall establish and provide for the continuing administration of a system
27 for receiving bids and explorer initiated offers, evaluating bids and explorer initiated offers,
28 negotiating and entering into operating agreements, issuing permits, monitoring actions of permit
29 holders, modifying operating agreements and permits relating to such operating agreements,
30 suspending operating agreements and permits relating to such operating agreements, and

1 terminating or revoking operating agreements and permits relating to such operating agreements,
2 which system shall be consistent with the provisions of this Act. PNEA shall include within the
3 system a schedule of fees to be charged by PNEA in connection with permitting. PNEA shall
4 publish a detailed description of the permitting system from time to time in such media as are
5 likely to reach potential bidders for operating agreements.

6 (d) PNEA shall establish and provide for the continuing administration of a system
7 for acquiring data, or encouraging the acquisition of data on behalf of the Republic of Palau,
8 concerning the existence and dimensions of any petroleum reserves in the Republic of Palau.

9 (e) PNEA shall, by regulations, establish a uniform schedule of taxes and a schedule
10 of royalties, levies, fees, or any other charges however designated, on petroleum or any other
11 natural resources recovered and for the importation of goods by the person exploring for or
12 producing petroleum or any other natural resources under the agreement; rates shall be submitted
13 to the Olbiil Era Kelulau for approval by joint resolution.

14 (f) For each agreement, PNEA shall develop a separate formula for the periodic
15 allocation of funds which are received from bidders and permit holders. The formula which
16 shall be authorized by the OEK by legislative measure so that states shall participate in the
17 approval process, shall: allocate such funds among the Authority, the national gov4ernment, and
18 the various state governments; be based on principles of fairness and equity; be consistent with
19 policies, procedures, rules, and regulations adopted by the board; and be consistent with the
20 intent of this Act that the Authority be fully able to effectively carry on its duties while being
21 funded to the fullest extent practicable by proceeds from its own operations. The allocation of
22 funds as described in this section shall be submitted to the Olbiil Era Kelulau for approval by
23 joint resolution. With regard to funds allocated to the national government under this section,
24 those funds shall be placed in the National Treasury.

25 (g) PNEA shall develop a comprehensive model agreement or, at PNEA's discretion,
26 a collection of model clause alternatives to be inserted into operating agreements negotiated by
27 PNEA covering all relevant aspects of activity under the respective type of operating agreement.
28 PNEA shall publish a detailed description of the model operating contracts or relevant clauses,
29 as appropriate, from time to time.

1 (h) PNEA from time to time, pursuant to its regulations, shall accept and respond to
2 inquiries from bidders and potential bidders for operating agreements; accept and evaluate bids
3 received; accept and evaluate explorer initiated offers; negotiate and enter into an appropriate
4 operating agreement, consistent with the purpose, intent, and provisions of this Act, with a
5 qualified bidder; and negotiate and enter into an appropriate operating agreement, consistent
6 with the purpose, intent, and provisions of this Act, with a person who has submitted an explorer
7 initiated offer when satisfied that such offer is acceptable.

8 (i) PNEA, and appropriate national agencies, shall coordinate the monitoring of the
9 operations of all operators and enforce the terms and conditions of all agreements. As part of
10 its enforcement authority, the PNEA, and appropriate national agencies directly or through
11 agents or representatives, may require operators to provide information to the PNEA, may
12 conduct on-site inspections of operations, may conduct investigations and audits of operators,
13 and may suspend or revoke any permit issued pursuant to this Act. In its enforcement role, the
14 PNEA may consult with, and seek the cooperation and assistance of, any appropriate office,
15 agency, or department of the executive branch.

16 (j) For each operating agreement, PNEA shall adopt and enforce appropriate
17 reporting requirements to be imposed on operators.

18 (k) PNEA shall negotiate with the various state governments to determine what areas
19 of the various states shall be made available for operations under operating agreements and
20 permits to be issued by the Authority. Each, state by and through appropriate legal procedures,
21 shall provide to PNEA a listing of all the available lands whether “state owned land” or
22 “privately owned land” available for negotiations. Such negotiations shall include, but not be
23 limited to, consideration of what type of operations are to be conducted, the nature of the area in
24 which operations are to be conducted, the size of the area which is to be made available for
25 operations, and the formula for allocation of funds to the state pursuant to subsection (e). In
26 undertaking the negotiations contemplated by this subsection, the PNEA shall consult with
27 relevant agencies of the national government.

28 (l) PNEA is authorized and empowered to: negotiate and enter into any lawful
29 contract, including but not limited to contracts for the services of employees, agents, attorneys,
30 auditors, financial institutions, technical experts, and consultants under terms consistent with the

1 policies, procedures, rules, or regulations adopted by the board in order to effectuate this Act;
2 adopt and use a corporate seal; adopt, amend, or repeal corporate by-laws consistent with the
3 policies, procedures, rules, or regulations adopted by the board; adopt and from time to time
4 amend rules and regulations which will have the force of law with respect to activities subject to
5 this Act; purchase, hold, operate, or use in any lawful manner consistent with policies,
6 procedures, rules, or regulations adopted by the board any type of property, whether real,
7 intellectual, personal, or mixed; borrow or raise and spend according to its budget any sum of
8 money; solicit, receive, and spend according to its budget any funding in any form from the
9 national government, foreign governments, international organizations, and any other entity
10 under terms consistent with policies, procedures, rules, or regulations adopted by the board; sue
11 and be sued in its own name; and engage in such other activities as are necessary, appropriate,
12 and consistent with policies, procedures, rules, or regulations adopted by the board in order to
13 exercise the powers, conduct the operations, and perform the functions assigned to it by this Act.

14 Section 19. Funding of the operations of the PNEA. The sum of \$100,000 is hereby
15 authorized to be appropriated and is appropriated, from local revenues, for expenditure and
16 obligation for the purpose of start-up funding for PNEA. The authority of the PNEA to obligate
17 funds appropriated by this section shall not lapse. Ongoing funding of the PNEA shall be from
18 monies collected from operators, loans, grants, and other forms of financial assistance from any
19 source; and from appropriations for the operation of the PNEA by the national government of
20 Palau. PNEA shall report to the Olbiil Era Kelulau, with a copy to the Executive Branch, on a
21 semi-annual basis, on the 1st of April and 1st of October of each year. The semi-annual report to
22 the Olbiil Era Kelulau shall be a report of all of PNEA's activities, including but not limited to
23 the following: all policies, procedures, rules, regulations; all permits issued; all operating
24 agreements executed; all bidding rounds; revocations or suspensions of permits; all property
25 purchased, real or personal or mixed; funds borrowed or raised; any form of funding from the
26 national government, foreign governments, international organizations, and any other entity. In
27 addition, PNEA shall keep its financial records accounts in accordance with generally accepted
28 accounting principles. At least annually PNEA shall be audited by an independent auditing firm,
29 with which PNEA and its employees shall cooperate. Nothing in this section abrogates any audit
30 right the Public Auditor may have with regard to PNEA.

1 CHAPTER 3

2 AMENDMENTS

3 Section 20. Safeguards. PNEA shall within reasonable time, and prior to exploratory
4 and extraction of petroleum and other natural resources, promulgate rules, regulations and
5 procedures to encompass comprehensive plans for spill response, cleanup, recovery of petroleum
6 and environmental restoration. Such rules and regulations shall address short term and long term
7 environmental restoration plan. PNEA shall consult and coordinate with the Environmental
8 Quality Protection Board “EQPB” in developing spill plan regulations. Said regulations shall
9 also require that PNEA regulated entities causing or contributing to petroleum spills or other
10 environmental damage be held liable for costs associated with clean up, restoration and
11 environmental monitoring of the spill and damaged area.

12 Section 21. Amendments. 40 PNC 1204, 1205, 1301, 1405, 1407, 1501, and 1601 are
13 amended to read as follows:

14 “Section 1204. Imposition of tax on other businesses.

15 (a) Every person, other than a person conducting activities pursuant to a
16 permit issued by the Palau National Energy Authority, engaging in any business, trade,
17 activity, or calling before assessing the tax under this section.

18 (b) Every person conducting activities pursuant to a permit issued by the
19 Palau National Energy Authority shall pay a tax in the amount determined by the Palau
20 National Energy Authority according to the provisions of the Palau National Petroleum
21 Act and any rules, regulations, policies, and procedures adopted thereunder.

22 Section 1205. Quarterly returns.

23 (a) Each taxpayer under this chapter, other than a person conducting activities
24 pursuant to a permit issued by the Palau National Energy Authority, shall make and file,
25 on or before the thirtieth day following the close of each quarter, a return to the Director
26 based on its revenues the previous quarter. A remittance covering the full amount of tax
27 liability as evidenced by the quarterly return shall accompany the return.

28 (b) Each person conducting activities pursuant to a permit issued by the Palau
29 National Energy Authority shall make and file tax returns according to the provisions of

1 the Palau National Petroleum Act and any rules, regulations, policies, and procedures
2 adopted thereunder.

3

4 Section 1301. Imposition of import tax.

5 (a) Every person, other than a person conducting activities pursuant to a permit
6 issued by the Palau National Energy Authority, who imports pay taxes thereon at the
7 following rates:

8

9 (c) Every person conducting activities pursuant to a permit issued by the Palau
10 National Energy Authority shall pay import tax in the amount determined by the Palau National
11 Energy Authority according to the provisions of the Palau National Petroleum Act and any rules,
12 regulations, policies, and procedures adopted thereunder.

13

14 Section 1405. Foreign water vessel tax; annual levy. There is hereby assessed
15 and levied a tax of fifty U.S. dollars (US\$50.00) to be paid for every water vessel
16 entering the territorial waters of the Republic. A water vessel present in the Republic for
17 more than one year is assessed and levied an annual tax of two hundred fifty U.S. dollars
18 (US\$250.00) to be paid on or before the thirty-first day of January of each year. “Water
19 vessel” for purposes of this section means every description of watercraft owned or
20 operated by a nonresident and used or capable of being used as a means of transportation
21 on water, irrespective of whether the water vessel is a pleasure boat or yacht, or to be
22 leased or sold. Water vessels lawfully (1) operating as common carriers or (2) used to
23 conduct, facilitate, support, aid, or further, in any manner, operations conducted pursuant
24 to a permit issued by the Palau National Energy Authority are exempted from levy,
25 assessment, and payment of the tax imposed under this section.

26

27 Section 1407. Vessel cabin tax.

28 (a)

29 (b)

30 (c)

1 (d)

2 (e)___Nothing in this section shall be interpreted or deemed to impose a tax on
3 any water vessel or ocean-borne or ocean-based structure operated or maintained solely
4 to conduct, facilitate, support, aid, or further, in any manner, operations conducted
5 pursuant to a permit issued by the Palau National Energy Authority.

6

7 Section 1501. Licenses required; fees.

8 (a) Any person engaging in business in the Republic, other than a person
9 engaged in activities pursuant to a permit issued by the Palau National Energy Authority,
10 shall, as a condition precedent to engaging or continuing to engage in business, obtain
11 from the Director a license to engage in business and pay an annual fee according to the
12 following schedule:

13 (1) Wholesaler

14 (2) Person engaging in a profession

15 (3) Importer

16 (4) Taxicab operator

17 (5) Massage parlor operator

18 (6) Other, general

19 (b) Any person engaging in business pursuant to a permit issued by the Palau
20 National Energy Authority, shall, as a condition of engaging in such business, pay to the
21 Palau National Energy Authority an annual fee or such other fees as may be prescribed
22 by the relevant permit.

23

24 Section 1601. Records of transactions. Except as otherwise provided in this
25 chapter, every person, firm, corporation or association

26”

27 CHAPTER 4

28 EFFECTIVE DATE

29 Section 22. Effective date. This Act shall take effect upon its approval by the
30 President of the Republic of Palau or upon becoming law without such approval.

Date: January 20, 2005

Introduced by: /s/

Florencio Yamada
Delegate