

**ELEVENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE**

PUBLIC LAW NO. 11-15
SENATE BILL NO. 11-29,
SD2, HCS1, HD1

FIRST REGULAR SESSION, 1998

AN ACT

To vacate Section 302(b) of Executive Order 94-3; abolish the existing Marianas Visitors Bureau; establish a new Marianas Visitors Authority, a public corporation, and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Legislative Findings and Declaration of Policy. The Legislature finds that tourism is an important industry in the Northern Mariana Islands and is a source of employment and business opportunity for the residents of the Commonwealth. It is hereby declared to be the policy of the Commonwealth that the continued development of the tourism industry should be encouraged, and in order to provide for the orderly development of this industry and to realize its full potential, it is necessary to establish a public corporation utilizing government, tourist-oriented businesses, and community leaders.

Section 2. Short Title. This Act may be cited as the "Marianas Visitors Authority Act of 1998."

Section 3. Definitions. As used in this Act:

- (a) "Board" means the Board of Directors of the Marianas Visitors Authority.
- (b) "Fund" means the MVA Operations Fund.
- (c) "Managing Director" means a managing director of the Marianas Visitors Authority.
- (d) "MVA" means the Marianas Visitors Authority.

Section 4. Establishment of the Marianas Visitors Authority. A Marianas Visitors Authority is hereby established in the Commonwealth government as a public

corporation. The MVA shall be headed by a managing director, under the direction of a board of directors.

Section 5. Duty to Promote Tourism. The MVA shall promote tourism and attract tourists to the Northern Mariana Islands by:

(a) Organizing and conducting programs, advertising, and publicizing the Northern Mariana Islands and its attractions to the traveling public.

(b) Advising the Governor and Legislature on the need for development, expansion and improvement of existing tourist facilities, and recommending methods to increase visitor satisfaction.

(c) Encouraging the investment of private funds to improve tourist facilities in the Northern Mariana Islands.

(d) Planning, constructing and maintaining reception and information booths and other tourist facilities and providing staff for such facilities.

(e) Recommending procedures for expediting immigration and customs clearance for tourists.

(f) Improving communication with foreign visitors by assisting in the establishment of foreign language training programs.

(g) Promoting the indigenous arts and crafts of the Northern Mariana Islands.

(h) Promoting the preservation of the cultural heritage of the Northern Mariana Islands.

(i) Promoting beautification programs in the Northern Mariana Islands.

(j) Preparing information booklets in English and other appropriate languages, for distribution to all tourists.

(k) Collecting, compiling, and analyzing statistics and other data and information that may be helpful in carrying out the provisions of this Chapter.

(l) Providing advice and technical assistance to tourism development organizations and tourism related enterprises.

(m) Encouraging and supporting the employment of local residents in the tourism industry.

(n) Coordinating efforts with all departments and agencies of the Commonwealth government including the mayors of each Senatorial district.

Section 6. Board of Directors.

(a) All powers vested in the MVA shall be vested in the Board of Directors, composed of the following nine members.

(1) Five members appointed by the Governor with the advice and consent of the Senate.

(2) Four members chosen by the members of the MVA pursuant to Section 10(c) of this Chapter and the Bylaws.

(b) Appointments to the Board shall comply with the provisions of 1 CMC §2901(g) except that for members appointed under Section 6(a)(2) no more than two may be persons who are not citizens or nationals of the United States.

(c) Board members shall serve for a term of four years provided that the initial members appointed under subsection (a)(1) shall serve for three years and the initial members chosen under subsection (a)(2) shall serve for two years.

(d) Board members shall not be compensated for meetings attended provided that a board member shall be compensated for actual expenses incurred pursuant to 1 CMC §8247.

(e) Board members may be removed for cause by the Governor or by a vote of two-thirds of the full membership of the Board.

(f) Five members of the Board shall constitute a quorum.

(g) The Board shall select a chairman, vice chairman, secretary, treasurer.

(h) The Board may adopt rules and regulations governing the conduct of its affairs.

(i) No government employee shall serve as a Board member.

Section 7. Board of Directors: Powers and Duties.

(a) The Board shall:

(1) Govern the operation of the MVA in a manner to further the goal and purpose of the MVA and assure its financial viability as provided for in this Chapter.

(2) Review and adopt long range plans, annual reports and proposed budgets submitted by the Managing Director as provided for in this Chapter and applicable statutes. The proposed budget shall be adopted by a two-thirds vote from members of the Board present at a meeting called for that purpose prior to submittal to the Governor.

(3) Annually evaluate the performance of the Managing Director.

(b) The Board may:

(1) Initiate action necessary to exercise the powers of the MVA established under this Act.

(2) Appoint committees and delegate its authority under this Act to any of its committees.

Section 8. Managing Director.

(a) The board members appointed under Section 6(a)(1) shall appoint a managing director who shall serve at the pleasure of such Board members.

(b) The managing director shall be the MVA's chief executive officer and shall operate and maintain the MVA's services and facilities.

(c) The board members appointed under Section 6(a)(1) shall set the managing director's level of compensation pursuant to 1 CMC §8246.

Section 9. Managing Director; Duties. The managing director shall:

(a) Enforce all bylaws, policies, rules and regulations of the MVA.

(b) Attend, unless excused by the board, all meetings of the board and submit reports on the affairs of the MVA as required by the board.

(c) Advise the board on the needs of the MVA and approve demands for payment of obligations within the purposes and amounts authorized by the board.

(d) Prepare or cause to be prepared all plans and specifications for the construction and repair of works and facilities operated by the MVA.

(e) Employ such persons as are necessary and economically feasible to perform the services required by the MVA.

(f) Devote full attention to the business of the MVA; to plan, organize, direct, coordinate and control the services of such employees and independent contractors in the exercise of the powers of the MVA under the general direction of the board.

(g) Submit to the board within sixty days after the end of each fiscal year an annual report showing the results of operations for the preceding fiscal year and the financial status of the MVA on the last day thereof. Upon approval by the board the annual report shall be published in the manner provided by the board.

(h) Submit to the board a long range plan to include goals and objectives of the MVA.

(i) Perform such other and additional duties as the board may require.

Section 10. MVA Membership. The board shall adopt bylaws relative to procedures whereby an interested person, organization, corporation, association or any other entity may become a member of the MVA. Such bylaws shall include, but shall not be limited to:

(a) Fees and charges required for membership;

(b) Categories of membership, if any; and

(c) Voting procedures for choosing the four board member positions under Section 6(a)(2) except that the initial four board members shall be chosen within 30 days of the effective date of this Act by the paying members of the Marianas Visitors Bureau. For the purposes of this subsection, "paying member" shall mean those paying members of the Marianas Visitors Bureau on the day before the effective date of this Act.

Section 11. Corporate Powers. The MVA may:

(a) Establish a schedule of fees to be charged for the use of tourist facilities or services provided by the MVA. The schedule of fees shall be sufficient to recover the operating costs and fixed costs and to generate such revenue as is necessary to make the MVA financially viable.

(b) to acquire, subject to the laws of the CNMI, by grant, gift, devise or lease, and to hold and use or to lease, sell, mortgage, or otherwise dispose of such interest, any real property necessary, convenient, or useful in connection with the activities of the MVA.

(c) Establish its internal organization and management.

(d) Adopt its own procurement and supply regulations consistent with CNMI procurement rules, regulations, policies, and procedures to purchase or lease supplies, goods, materials, professional services and commodities and to

furnish and supply services as incident to the operation of its services and facilities.

(e) Adopt a seal.

(f) Sue or be sued in its own corporate name.

(g) To employ agents and employees, including contracting for the services of qualified managing directors, specialists or experts, as individuals or as organizations, to advise and assist the MVA. They shall be exempt from the application of 1 CMC § 8101 et seq., the Commonwealth Civil Service Act, except as provided in Section 8(c) of this Act. The MVA may set its own compensation and wage and salary scales to be approved by a joint resolution of the legislature. The wage and salary scales shall be commensurate with those paid by the Commonwealth requiring comparable education, training, and experience.

(h) Adopt and maintain a uniform system of accounting which is in accordance with generally accepted accounting principles.

(i) Acquire, hold and use in accordance with established laws any personal property necessary or convenient or useful for carrying out any of its powers or duties.

(j) Prepare and submit, pursuant to 1 CMC § 7206, a proposed budget for each ensuing fiscal year.

(k) Prescribe, adopt, amend and repeal bylaws pertaining to the management, personnel and financing of the MVA.

(l) Receive, hold and expend moneys collected for services rendered, grants, donations, or any other funds as designated by the Board.

(m) Expend appropriated funds as provided for in the operations of the MVA.

(n) To take such action as it deems necessary and proper to operate the corporation, further its purposes, administer its services, and perform its duties.

Section 12. MVA Operations Fund: Appropriations and Expenditures.

(a) There is hereby established a fund to be known as the "MVA Operations Fund" which shall be maintained separate and apart from other funds of the Commonwealth Government and independent records and accounts shall be maintained in connection herewith.

(b) All moneys received by the MVA from whatever source shall be deposited in the Fund and eligible banks as defined in the Commonwealth Code.

(c) All appropriations by the Commonwealth shall be allotted and transferred to the Fund at least on a quarterly basis.

(d) All debts, liabilities, obligations and operational expenses of the MVA shall be paid from the Fund.

(e) No expenditures not included in the approved budget, and no debt, obligation, or liability shall be incurred or created in any fiscal year, in excess of the amounts specified therein for each purpose.

(f) The fiscal year of the MVA shall correspond to that of the Commonwealth.

(g) The expenditure authority of all funds collected by the MVA or appropriated to the MVA by the Commonwealth shall be the Chairman of the Board, or designee.

(h) The Board shall submit quarterly reports relative to Subsections 12(b) and (c) to the presiding officers of the legislature and copies to the respective fiscal affairs committees of each house.

Section 13. Auditing. The Public Auditor shall audit the operations, books, and records of the MVA at least annually and in accordance with 1 CMC § 7710(a) and 1 CMC § 2301 et seq. The report of the audit shall be transmitted to the executive managing director, the board, the Governor, and the legislature. If the Public Auditor does not complete an annual audit within three months of the close of the fiscal year, the MVA shall immediately engage a certified public accountant for that purpose.

Section 14. Employment Practices. The board shall establish rules and regulations governing the selection, promotion, performance evaluation, demotion, suspension, dismissal, and other disciplinary rules for employees of the MVA.

(a) Employees of MVA, excluding its board members, may be members of the Commonwealth Retirement fund in the same manner as if they were employees of an agency of the Commonwealth. The MVA shall contribute to the Commonwealth Retirement Fund on the basis of annual billings as determined by the governing authorities thereof.

(b) Employees of the MVA shall be eligible to participate in any Commonwealth health and life insurance plan, and shall accumulate leave time in

accordance with applicable Commonwealth laws. The authority shall also contribute to the Workmen's Compensation Fund on the basis of annual billing by the governing authorities thereof.

Section 15. Rule making. The MVA shall adopt rules and regulations necessary to implement the provisions of this Chapter.

Section 16. Exemption from Taxation. As an instrumentality of the Commonwealth, the MVA and all property acquired by or for the MVA, and all revenues and income therefrom are exempt from taxation and business regulation by the Commonwealth or by any political subdivision or public corporation thereof. This exemption on behalf of the MVA includes, but is not limited to, its franchise, capital, obligations including interest thereon, reserves, surplus, loans, income assets, and other property of any kind, provided that this exemption does not apply to persons entering into independent contracts with the MVA.

Section 17. Transfer of Title to MVA. Within thirty days after the enactment of this Act, the Chairman of the Board of Directors of the Marianas Visitors Bureau shall transfer to the MVA:

(a) All items of property used exclusively for the operation of the Marianas Visitors Bureau or for operations which are to be assumed by the MVA, and all materials and supplies used exclusively in connection with said purposes.

(b) All working capital, cash, accounts payable and receivable, deposits, advances payable and receivable, all books, records and documents, and all other rights, obligations, assets, liabilities, agreements, contracts, leases, concessions and all other rights, obligations, and privileges pertaining to the operation of the, and other matters and concerns of the Marianas Visitors Bureau, or the Governor which are to be assumed by the MVA.

Section 18. MVA to Assume Rights, Obligations and Duties of the Marianas Visitors Bureau. All lawful obligations of the Marianas Visitors Bureau existing during the effective date of this Act, and all fines, taxes, penalties, forfeitures, obligations and rights, due, owing or accruing to the Marianas Visitors Bureau or government, and all writs, prosecutions, actions and proceedings by or against the Marianas Visitors Bureau or government shall remain unaffected by adoption of this Act.

Section 19. Assumption of Personnel by MVA.

(a) Employees working for the Marianas Visitors Bureau shall continue to be employed by the MVA on the date of the assumption of functions by the MVA except as provided in Section 20 of this Act.

(b) The personnel rules and regulations now applicable to the employees working for the Marianas Visitors Bureau shall be applicable to the MVA until the MVA adopts its own personnel rules and regulations.

Section 20. Board and Managing Director Transition.

(a) The board members of the Marianas Visitors Bureau shall serve as board members of the MVA for 30 days after the effective date of this Act or until board members are appointed pursuant to Section 6 of this Act, whichever is earlier.

(b) The managing director of the Marianas Visitors Bureau shall serve as managing director of the MVA for 30 days after the effective date of this Act or until the Board appointed pursuant to this Act appoints a managing director, whichever is earlier.

Section 21. Disposition of Interim Funds. After the assumption of functions by the MVA, all moneys formerly received by or paid by the Marianas Visitors Bureau shall be received by and paid from the MVA Operations Fund.

Section 22. Repealer: Marianas Visitors Bureau Abolished. Executive Order 94-3, Section 302(b) is hereby vacated in its entirety.

Section 23. Repealer. Chapter 1 of Division 2 of Title 4 of the Commonwealth Code is hereby repealed.

Section 24. Titles Changed. Amend the following by replacing the words "Marianas Visitors Bureau" with "Marianas Visitors Authority": 1 CMC §7103(n); 1 CMC §7401(n); 2 CMC §1521; 2 CMC §3411(b); 2 CMC §4875(a)(6); 2 CMC §7223(c); 4 CMC §1803(b) and (c); and 9 CMC §5807(b).

Section 25. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 26. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

Section 27. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

ATTESTED BY:

/s/ Paul A. Manglona
PAUL A. MANGLONA
PRESIDENT OF THE SENATE

/s/ Pete P. Reyes
for EDWARD U. MARATITA
SENATE LEGISLATIVE SECRETARY

Approved this 17th day of June, 1998.

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS