



AMERICAN SAMOA GOVERNMENT
PAGO PAGO, AMERICAN SAMOA 96799

In reply refer to:

LEGISLATURE OF AMERICAN SAMOA

CERTIFICATION

Senate Chamber
September 27, 1991

I certify that Senate Bill No. 22-64 passed third reading on this date in the Senate during its Third Special Session of the Twenty-second Legislature of American Samoa.

Leo'o V. Ma'o
Leo'o V. Ma'o
SECRETARY OF THE SENATE

House Chamber
October 2, 1991

I certify that Senate Bill No. 22-64 passed third reading on this date in the House of Representatives during its Third Special Session of the Twenty-second Legislature of American Samoa.

Wally F. Utu
Wally F. Utu
CHIEF CLERK, HOUSE OF REPRESENTATIVES

THE TWENTY-SECOND LEGISLATURE OF AMERICAN SAMOA

Third Special Session

**Begun and held at Fagatogo, Tutuila, American Samoa
on Friday, the twenty-seventh day of September
one thousand nine hundred and ninety one**

**AN ACT ESTABLISHING A DIVISION OF WATER AND WASTEWATER UTILITY IN
THE AMERICAN SAMOA POWER AUTHORITY AND TO ALLOW THE AUTHORITY
TO BORROW; AMENDING SECTIONS 15.0101, 15.0102, 15.0106, 15.0107 AND 15.0110
ASCA.**

PREAMBLE:

Due to the urgent need for the American Samoa power authority to be vested with the explicit authority to borrow in order to obtain funds to improve its facilities and equipment, this act is effective upon passage by the Legislature and approval by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 15.0101 is amended to read:

"15.0101 Establishment of the American Samoa power authority.

(a) There is established a governmental agency within the executive branch of the government known as the American Samoa power authority; and

(b) a division within the American Samoa power authority known as the water and wastewater utility division."

Sec 2. 15.0102 is amended to read:

"15.0102 Powers and duties of the authority.

The American Samoa power authority:

(1) may sue and be sued as set forth in 43.1203 and 43.1205;
(2) may adopt and use a seal;
(3) may make contracts, as authorized in this chapter;
(4) may adopt, amend, and repeal bylaws;
(5) may purchase or lease and hold personal property it considers necessary or convenient in the transaction of its business, and may dispose of personal property held by it;

(6) has the power in the name of the government to purchase, lease, or sell real estate, and to accept title to that real estate in the name of the government, to accomplish the purpose of this chapter;

(7) shall make all arrangements for the generation, purchase, transmission, distribution, and sale or other disposition of electric energy generated by facilities of the authority or purchased by the authority within the Territory;

(8) shall develop and publish tariffs and schedules of rates, charges, and services and other rules for providing electric energy in accordance with the Administrative Procedures Act, 4.1001 et seq.; these rates and charges carry into effect, as near as may be, the standards prescribed for ratemaking in PL 05-617, the Public Utility Regulatory Policies Act, effective 9 November 1978, 16 U.S.C. 2621 et seq.;

(9) shall, through its water and wastewater utility division, make all arrangements for the production, distribution, and sale of potable water, and the collection and disposal of wastewater, and the operations and maintenance of the water and wastewater systems within the Territory of American Samoa;

(10) shall develop and publish tariffs and schedules of rates, charges, and services and other rules of providing potable water and for wastewater disposal in accordance with the Administrative Procedures Act, 4.1001 et seq.;

(11) may borrow money and incur indebtedness for capital improvements, and may mortgage, assign, hypothecate and give security interests in authority property and earned revenue to secure such indebtedness; provided that no mortgage of or security interest in real property of the authority or of the government may be given; provided that any indebtedness so created shall be that of the authority alone, and shall not be an obligation or debt of the government, unless otherwise provided by law and provided that total indebtedness shall not exceed 50% of the authority's equity unless approved by the Fono;

(9)(12) may contract for the procurement of supplies, equipment, materials, personal services other than by employees, and construction with any public or private entity upon terms and conditions as it finds necessary to the full and convenient exercise of its purposes and powers, subject to all applicable laws and rules of American Samoa; the authority shall receive and account for its inventory of materials, supplies and equipment; and

(10)(13) may do other things needful and necessary to the full and convenient exercise of the above powers, including but not limited to the construction of facilities on property owned by the government."

Sec 3. 15.0106 is amended to read"

"15.0106 ~~Transfer of existing systems of generation Transmission and distribution.~~

(a) Electric utility. At a date fixed by the board of directors, the government shall transfer to the authority the right to operate all items of property, including construction in progress, equipment and machinery used in connection with the then existing electric utility operation of the government. Property jointly used for electric utility and governmental non-utility functions must be equitably allocated between the government and the authority; provided that the allocation assures the continuing efficient functioning of the electrical generations, transmission, and distribution functions of the government. In the event of dispute, the allocation is determined by the Governor. The property accounts for the authority are valued for ratemaking purposes at the depreciated acquisition cost of the property as of the date of transfer, and are included in the rate base of the authority. Future capital contribution ~~is~~ to the authority from the government must be by separate authorization and appropriation. The Legislature has the exclusive power to provide supplemental funding by appropriation for the operations of the authority. These appropriations may be designated as loans and not as part of the permanent capital. The appropriations may require repayment to the government at rates of interest specified in the appropriations bills.

(b) Water and wastewater utility. At a date fixed by the Governor and the board of directors of the power authority, the government shall transfer to the authority the right to operate all items of property, including construction in progress, equipment and machinery used in connection with the then-existing water and wastewater operations of the government. Property jointly used for water, wastewater and governmental non-utility functions shall be equitably allocated between the government and the authority, provided that the allocation assures the continuing efficient functioning of water production and distribution, and wastewater collection and disposal. In the event of dispute, the allocation shall be determined by the Governor. The property accounts for the water and wastewater utility are valued for ratemaking purposes at the depreciated acquisition cost of the property as of the date of transfer, and shall be included in the rate base of the water and wastewater utility. Future capital contributions to the authority from the government shall be by separate authorization and appropriation. The Legislature has the exclusive power to provide supplemental funding by appropriation for operations of the water and wastewater systems of the authority. Appropriations made to the authority after October 1, 1988 for the operation of the water system may be designated as loans and may require repayment to the government at rates of interest specified in the appropriations acts. Appropriations made to the authority after October 1, 1988 for the operation of the wastewater system shall be designated as subsidies for fiscal year 1989 and thereafter in the amount of \$600,000 annually. The wastewater operation subsidy shall be adjusted annually on September 30 of

each year, beginning in 1992, in proportion to the change in number of wastewater customers compared to the number of such customers on June 30, 1991, and in proportion to the annual increase in the American Samoa Consumer Price Index."

Sec 4. 15.0107 is amended to read:

"15.0107 Accounting and budget.

The authority shall assume responsibility for the accounting and financial management of the electric utility, and water and wastewater systems, and shall administer or contract with the government for the administration of all accounting systems, including general ledger, fixed assets, accounts receivable, accounts payable, payroll, and cash. It shall establish proper internal accounting controls and procedures, and it shall prepare an annual budget as a part of the Governor's budget process."

Sec 5. 15.0110 is amended to read:

"15.0110 Implementation.

(a) Electric utility. This chapter must be implemented according to the schedule prepared initially by the authority task force and carried forward, as supplemented, by the board of directors when appointed, and in no case later than 60 days after 10 November 1982, the effective date.

(b) Water and wastewater utility. The transfer of the water and wastewater utility shall be implemented immediately and the provisions herein shall serve to confirm and ratify the transfer of the water and wastewater utility effected by Executive Order Nos. 06-1988 and 10-1990."

Sec 6. Effective date.

This act shall become effective upon passage by the Legislature and approval by the Governor.

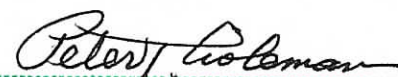

Letuli Toloa

PRESIDENT OF THE SENATE


Tuana'itau F. Tuiā

SPEAKER OF THE HOUSE

Hereby Approved this 22nd day of October, 19 91



Governor of American Samoa

NOFOAIGA LUASEFULU-LUA FONO FAITULAFONO O AMERIKA SAMOA

Fono Fa'apitoa Lona Tolu

**Nofolia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Faraile, aso luasefulu-fitu o Setema
tasi afe iva selau iva sefulu-tasi**

**O SE TULAFONO E FA'AVAE AI SE VAEGA O VAI MA SUAVAIVALE I TOTONU O LE
PULEAGA O LE PAOA I AMERIKA SAMOA MA FA'ATAGA AI LE PULEAGA E NONO;
SUIA AI MAGA 15.0101, 15.0102, 15.0106, 15.0107, MA LE 15.0110.**

FA'ATOMUAGA:

Taluai, ona o le fa'anatinati o le mana'o ina ia tu'u atu i le Puleaga o le Paoa a Amerika Samoa le malosiaga e nono ai ina ia maua ni tupe e fa'aleleia ai ona fale ma mea faigaluega, o lenei tulafono o le a taualoa loa lava pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana.

IA FA'ATULAFONOINA E LE FONO FAITULAFONO O AMERIKA SAMOA:

Maga 1. 15.0101 ua suia e faitauina:

"15.0101 Fa'avaega o le Pule'aga o le Paoa o Amerika Samoa.

(a) Ua fa'avaeina nei se vaega o le malo i totonu o le lala fa'amalositulafono e ta'ua o le Puleaga o le Paoa a Amerika Samoa; ma

(e) se vaega i totonu o le Puleaga o le Paoa e ta'ua o le vaega o le iutilia o le vai ma le suavaivale."

Maga 2. 15.0102 ua suia e faitauina:

"15.0102 Malosi'aga ma tiute o le Puleaga.

O le Puleaga o le Paoa o Amerika Samoa:

(1) e mafai ona ia su ma suina fo'i e pei ona fa'atulaga i le 43.1203 ma le 43.1205;
(2) e mafai ona taualoa ma fa'aaoga se fa'amaufa'ailoga
(3) e mafai ona ia faia konekarate, e pei ona fa'atagaina i lenei mataupu;
(4) e mafai ona ia taualoa, suia, ma soloia ni tulafono galue;
(5) e mafai ona ia fa'atau pe lisi mai ma taofia meatotino ua na taofi ua fia maua pe fa'afaigofie ai ona fa'ataunu'u ana pisinisi, ma e mafai ona ia tu'ueseina atu meatotino ua i lana tausiga;

(6) e iai le paoa i le igoa o le malo e fa'atau ai, lisi, pe fa'atau atu foi fanua, ma talia le puletonu i ia laueleele i le igoa o le malo, e fa'ataunu ai fa'amoemoega o lenei mataupu;

(7) e faia tapenaga uma mo le gaosia, fa'atauga, tufatufaga, fa'asoaga, ma le fa'atauina atu o nisi enetia fa'aetise ua gaosia e ona fale gaosi eletise po'o ua fa'atauina mai fo'i e le Puleaga mai nisi i totonu o le Teritori;

(8) o le a saunia ma lomina lisi ma fua o totogi, tau, ma tautua uma ma isi tulafono galuega mo le tu'uina atu o enetia fa'aetise e tusa ma le Tulafono o Pulega o Taualumaga, 4.1001 et seq.; o ia fua o totogi ma tau o le a fa'atino ai, i se latalata e mafai ai, tulaga mo le faia o totogi o lo'o i totonu o le TL 05-617, o le Tulafono mo le Pulega o Iutilia Lautele, na taualoa ia Novema 9, 1978, 16 U.S.C. 2621 et seq.;

(9) o le a, e ala i lona vaega iutilia o vai ma suavaivale, faia tapenaga uma mo le gaosia, tufatufaga, ma le fa'atauina atu o vai taumafa, ma le aoina ma le lafoa'ia o le suavaivale, ma le fa'agaoioiga ma le tausiga o le matata o vai ma suavaivale i totonu o le Teritori o Amerika Samoa;

(10) o le a saunia ma lomina lisi ma fua o totogi, tau, ma tautua ma isi tulafono galue e fa'asino i le tu'uina atu o vai taumafa ma le lafoa'ia o suavaivale e tusa ma le Tulafono o Pulega o Taualumaga, 4.1001 et seq.;

(11) e mafai ona nono tupe ma faia ni aitalafu mo galuega lautele, ma faia ni mokesi, t'uu atu, fa'aune ma tu'u atu ni aia i ni meatotino po'o ni tupe maua mai ana gaioioiga e fa'amau ai ia nofogaaitalafu; vagana ai e le mafai ona tu'uina atu se mokesi po'o initeresi i fanua o le puleaga poo le malo e fa'amau ai ia nofogaaitalafu; vagana ai o ia nofogaaitalafu ua faia o mea lava a le puleaga lava ia, ae le o saisaitia pe nofo aitalafu ai le malo, vagana ua ese se isi aiaiga i se tulafono, ma saunia le aofa'i o le nofoaitalafu e le silia le 50% o le tupe a le pulega vagana ua fa'amaonia e le Fono;

(9) (12) e mafai ona fai konekarate mo le fa'atau maia o oloa, mea faigaluega, mea eseese mo galuega, tautua mai nisi tagata e ese mai ana tagata faigaluega, ma galuega tau fausaga ma soo se vaega lautele pe fa'apito i luga o ni aiaiga ma tu'utu'uga ua na taofi ua tatau ma mana'omia mo le fa'ataunu'uina lelei ma le atoatoa o ona fa'amoemoega ma paoa, i lalo o tulafono uma ma tulafono galuega a Amerika Samoa e ono a'afia ai; o le a talia ma teuina manino i ni tusitusiga a le puleaga se lisi o ana oloa, mea faigaluega; ma

(10)(13) e mafai ona faia isi mea e tatau ai ma e mana'omia mo le fa'ataunu'uina lelei ma le atoatoa o ona paoa ua ta'ua i luga, e aofia ai ae le gata i le fausia o fale i luga o eleele o le malo."

Maga 3. 15.0106 ua suia e faitauina:

"15.0106 Fesuaiga o meatotino o iai nei ~~e le gaoioiga, fa'asoaga ma le tufatufaga.~~

(a) Iutilia eletise. I se aso o le a fa'atulaga e le komiti fa'atonu, o le a tu'u atu e le malo i le puleaga le aia e fa'agaoioi ai meatotino uma, e aofia ai ni fausaga e le'i mae'a, meafaigaluega ma masini o lo'o fa'aaoga i le fa'agaoioiga e le malo o le iutilia eletise e pei ona iai nei. O mea totino o lo'o fa'aaogaina fa'atasi mo le iutilia eletise ma isi gaoioiga a le malo e le a'afia ai iutilia, e ao ina vaevaeina tutusa i le va o le malo ma le puleaga; ae peita'i o lea vaevaega e mautinoa ai pea le lelei o le fa'agaoioiga o le gaosia o le eletise, le fa'asoaina ma le tufatufaga e pei ona faia e le malo. Pe a tupu se finauga, o le Kovana na te faia le fa'aiuga. Mo le faia o lisi ma fua o totogi o ana tautua tu'uina atu, o le a fa'aaoga le fua o le tau o mea totino a le puleaga, i le tulaga ua fa'aitiitia le taua, e fua i le aso na faia ai le fesuaiga. O isi tupe po'o mea totino fa'avae e toe tu'uina atu i le puleaga e le malo i le lumana'i, o le a faia e ala i se fa'atagaga ma se fa'asoaga o tupe e motu ese mai lenei. E iai i le Fono Faitulafono le paoa atoatoa e tu'uina atu ai ni tupe fa'asoasoa fa'aopoopo mo gaoioiga a le puleaga. O ia fa'asoasoa o le a ta'ua fa'apea o ni louni ae le o ni vaega o le tupe fa'avae tumau. E mafai ona fa'atonu i ia fa'asoaga le toe totogi o ia tupe i le malo i ni fua o tului o le a ta'ua ai i ia pili o fa'asoasoa.

(e) Iutilia o Vai ma Suavaivale. I se aso e fa'atulaga e le Kovana ma le komiti fa'atonu o le puleaga o le paoa, o le a tu'uina atu e le malo i le puleaga le aia e fa'agaoioia ai meatotino uma, e aofia ai fausaga e le'i mae'a, meafaigaluega ma masini o lo'o fa'aaoga i lea taimi i le fa'agaoioia e le malo o le vai ma le suavaivale. O meatotino o loo fa'aaogaina fa'atasi i le fa'agaoioiga o le vai ma le suavaivale ma isi galuega a le malo e le feso'otai ma iutilia, o le a vaevae tutusa i le va o le malo ma le puleaga, ae peita'i o ia vaevaega ia mautinoa ai le fa'aauau pea o le gaoioiga lelei o le gaosia ma le tufaina o vai taumafa, ma le aoga fa'apea le lafoa'ia o suavaivale. Pe a iai se finauga, o le a fa'ai'u e le Kovana le vaevaega. Mo le faia o lisi ma fua o totogi o ana tautua tu'uina atu, o le a fa'aaoga le fua o le tau o meatotino a le pule'aga, i le tulaga ua fa'aitiitia le taua, e fua i le aso na fai ai le fesua'iga, ma o le a aofia i le fa'avae o totogi e fa'aaoga e le iutilia o vai ma suavaivale. O nisi fa'aopoopoga o tupe fa'avae e tu'uina e le malo i le puleaga o le a faia e ala i ni fa'asoasoa e ese mai lenei. E i le Fono Faitulafono le malosi atoatoa e aiaia ai ni fa'atupega fa'aopoopo e ala i ni fa'asoaga mo le fa'agaoioia o le iutilia o vai ma suavaivale e pei ona faia e le pule'aga. O fa'asoaga o tupe e tu'uina atu mo le puleaga ina ua mavae Oketopa 1, 1988 mo le fa'agaoioia o le lala o vai taumafa o le a ta'ua o ni louni ma e mafai ona mana'omia le toe totogi mai i le malo i fua o tului o le a faama'oti i na tulafono o fa'asoaga. O ni fa'asoaga o le a tu'uina atu i le pule'aga i tua mai o Oketopa 1, 1988 mo le fa'agaoioia o matata o suavaivale o le a ta'ua o ni fesoasoani mo le tausaga fa'ale tupe 1989 ma a mavae lena o le aofaiga e \$600,000 i le tausaga. O le fesoasoani mo le fa'agaoioiga o le matata o suavaivale o le a suia i tausaga ta'itasi ia Setema 30, amata i le 1992, e fua i le suiga o le aofai o tagata latou te fa'aaogaina le matata o suavaivale i le taimi nei ma Iuni 30, 1991, ma fuafua foi i le suiga tausaga o le Faasologa o le Tau o Oloa o Amerika Samoa."

Maga 4. 15.0107 ua suia e faitauina:

"15.0107 Tausiga o tusi ma le tupe fa'asoasoa.

O le a tauaveina e le puleaga le fatuaiga o le tausiga o tusi ma le pulea o mataupu tau tupe a le iutilia eletise, ma le matata o vai ma suavaivale, ma o le a pulea ma fai konekarate ma le malo mo le pulea o tausiga o tusi, e aofia ai le tusi autu, aseta tumau, aitalafu e tatau ona ao mai, aitalafu e tatau ona totogi atu, totogi, ma tino i tupe. O le a ia saunia se faiga lelei mo le pulea ma taualumaga o teugatusi a ia lava, ma o le a ia saunia se tupe fa'asoasoa fa'ale tausaga o se vaega o le talosaga o tupe fa'asoasoa a le Kovana."

Maga 5. 15.0110 ua suia e faitauina:

"15.0110 Fa'ataunu'uga.

(a) Iutilia fa'aeletise. O lenei mataupu e ao ina fa'ataunu'uina e tusa ma lisi na muai saunia e le vaega fa'apitoa a le puleaga ma tau'ave mai, e pei ona fa'aopoopoina, e le komiti fa'atonu pe a tofia, ae peita'i ia le mafai ona tuai nai lo le 60 aso pe a mavae le aso 10 o Novema, 1982, le aso taualoa.

(e) Iutilia o vai ma suavaivale. O le fesuia'iga o le iutilia o vai ma suavaivale ia fa'ataunu'u loa lava ma o aiaiga i totonu o lenei tulafono o le a fa'amautu ma fa'amaonia ai le tu'uina atu o le iutilia o vai ma suavaivale na faia i lalo o Poloaiiga Aoao Nu. 06-1988 ma le 10-1990."

Maga 6. Aso Taualoa.

O lenei tulafono o le a taualoa loa lava pe a pasia e le Fono Faitulafono ma fa'amaonia e le Kovana."



Letuli Toloa
PERESETENE, MAOTA MAUALUGA



Tuana'ifau F. Tuiā
FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 27nd day of October, 19 91.



Peter T. Coleman
Governor of American Samoa