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RPPL No. 2-7

SECOND OLBIIIL ERA KELULAU RPPL NO. 2-7
(SB. No. 2-42, SD1, HD1, CD1)
Third Regular Session, July 1985

AN ACT

To create an Office of the Special Prosecutor, to provide for the appointments of the Special Prosecutor, to prescribe its powers, functions and duties, and for other purposes.

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

Section 1. Short title. This Act shall be known and may be cited as the "Special Prosecutors Act."

Section 2. Office of the Special Prosecutor; creation; appointment; removal. There is hereby created an Office of the Special Prosecutor for the Republic of Palau. The Office shall be headed by a special prosecutor appointed for a term of five years by the President with the advice and consent of the Senate and shall be within the office of the President for budget purposes only. The Special Prosecutor shall be an attorney licensed to practice before all courts in the Republic of Palau and the federal district courts of Guam or Hawaii. The Special Prosecutor will not be removed from his duties except for cause and without the President's first consulting the President of the Senate and the Speaker of the House of Delegates and ascertaining that their consensus is in accord with his proposed action. The President must appoint a Special Prosecutor within 30 days of receipt of a Joint Resolution from the Olbiil Era Kelulau requesting such appointment. In the event the President fails to so appoint, the Olbiil Era Kelulau may appoint a Special Prosecutor by Joint Resolution of the Olbiil Era Kelulau pursuant to Article IX, Section 5(20) of the Constitution of the Republic of Palau.

Section 3. Powers and duties of Special Prosecutor; independent nature of office.

(a) The Special Prosecutor shall have the following powers, functions and duties:

(1) To receive complaints of, investigate and prosecute on behalf of the people, the national and state governments, or some combination thereof, any and all allegations of violations of the Constitution, laws of the Republic, laws of the Trust Territory, District Code laws, prior, present

and future, or failure to implement such law of the Republic of Palau by elected or appointed officials and employees of the national government and state governments;

(2) To act as the prosecutor for the national government in any case in which the Ministry of Justice is unable to prosecute because of an actual or potential conflict of interest or other ethical considerations;

(3) To inspect personally, or by his duly authorized assistants, all books, records, accounts and property owned or in the possession of the national government and state governments, their subdivisions and agencies;

(4) To require the aid and assistance of all national officials and employees and any custodian of public funds or property at all times in the inspection and examination of all books, records, accounts, and property of the national government;

(5) To hire such staff as may be necessary to carry out its functions under this Act; and

(6) To subpoena witnesses, administer oaths and obtain testimony.

(b) In exercising his authority, the Special Prosecutor will have the greatest degree of independence that is consistent with the President's constitutional and statutory accountability for all matters falling within the jurisdiction of the Executive Branch. The President will not countermand or interfere with the Special Prosecutor's decision or actions. The Special Prosecutor will determine whether or and to what extent he will inform or consult with the President about the conduct of his duties and responsibilities.

Section 4. Accounting and appropriations.

The sum of One Hundred and Fifty Thousand Dollars is hereby authorized from the National Treasury of the Republic of Palau for the purpose of funding the office of Special Prosecutor for the Fiscal Year 1986.

The Special Prosecutor shall submit a quarterly report to the Olbiil Era Kelulau not later than thirty (30) days after the expiration of the quarter which report shall provide a full disclosure of all sums expended by the Special Prosecutor during the reporting period.

Section 5. Severability. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 6. Effective date. This Act shall take effect upon its approval by the President of the Republic of Palau, or upon its becoming law without such approval, except as otherwise provided by law.

PASSED: August 2, 1985

Approved this day of , 1985.

Alfonso R. Oiterong

President, Republic of Palau

Became law without the President's approval on August 25, 1985.