

THE THIRTY-FIRST LEGISLATURE OF AMERICAN SAMOA

Second Special Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Tuesday, the thirteenth day of October
two thousand and nine

AN ACT GRANTING LOAN AUTHORITY TO THE AMERICAN SAMOA GOVERNMENT IN AN AMOUNT NOT TO EXCEED \$10,000,000.00 FOR THE PURPOSE OF PROVIDING NECESSARY CAPITAL TO THE AMERICAN SAMOA POWER AUTHORITY WHILE IT FACES REDUCED REVENUES AND INCREASED EXPENDITURES AS A RESULT OF THE EARTHQUAKE AND TSUNAMI ON SEPTEMBER 29, 2009.

Preamble:

WHEREAS, on September 29, 2009 an earthquake and resulting tsunami severely, damaged the power plant of the American Samoa Power Authority at Satala, American Samoa; and

WHEREAS, the ability of the American Samoa Power Authority to provide electrical, water and other utility services to many commercial and residential customers has been markedly reduced, resulting in substantially decreased revenues; and

WHEREAS, in an effort to minimize disruption of utility services and restore utility services to areas affected by the outage at the Satala Power Plant, moneys have been expended and obligated by the American Samoa Power Authority, thus significantly increasing operating expenses; and

WHEREAS, an urgent financial need exists to infuse the American Samoa Power Authority with necessary capital so that it can finance its monthly operating expenses until its ability to provide utility services is substantially restored and its revenue and expenses have stabilized; and

WHEREAS, restoration of utility services provided by the American Samoa Power Authority and stabilization of its revenues and expenses are expected to occur by May 1, 2010.

Due to the urgent need to restore and maintain utility services provided to the public by the American Samoa Power Authority, this act shall be effective immediately upon passage by the Legislature and approval by the Governor.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. Authorization.

The American Samoa Government is given the authority to loan moneys, or to act as co-signatory to the American Samoa Power Authority in any loan or loans, in an aggregate amount not to exceed \$10,000,000.00. The interest rate, repayment schedule and other necessary terms in any loan agreement(s) between the American Samoa Power Authority and the American Samoa Government shall be set forth in a loan agreement to be executed by the American Samoa Government and the American Samoa Power Authority. The Governor of American Samoa shall have authority to sign such a loan agreement on behalf of the American Samoa Government. The Governor may also sign as co-signatory on behalf of the American Samoa Government in any loan agreement entered into pursuant to this bill. After his review, the Governor shall have the authority to approve or reject any loan agreement proposed to him pursuant to this bill.

Sec 2. Appropriation of funds.

(a) All moneys borrowed by the American Samoa Power Authority pursuant to this bill shall be used for the purpose of purchasing necessary equipment, supplies and fuel to provide electrical, water and other utility services to its customers and in funding other necessary operational costs that have been or will be incurred during the time period beginning September 29, 2009 and ending May 1, 2010.

(b) Loan proceeds borrowed pursuant to this act shall not be used to pay, repay, extend or refinance any pre-existing indebtedness incurred by the American Samoa Power Authority for operating expenses which indebtedness has not been expressly approved by the Legislature.

Sec 3. Sources of funding and repayment schedule.

(a) Any moneys borrowed from the American Samoa Government by the American Samoa Power Authority under this bill shall be drawn from the general fund for fiscal year 2010 of the American Samoa Government Treasury. Before entering into any loan agreement on behalf of the American Samoa Government whereby moneys are disbursed from the American Samoa Government Treasury to the American Samoa Power Authority, the Governor of American Samoa shall negotiate with the American Samoa Power Authority a repayment schedule, interest rate and any other loan term, including application of offsets, which, in his discretion, seems necessary and appropriate.

(b) Any other loan agreement entered into pursuant to this bill between the American Samoa Power Authority and any commercial bank, the U.S. Government or any other lender, where the American Samoa Government acts as a co-signatory, shall be funded and repaid under its own terms.

Sec. 4. Reporting.


(a) Immediately following the closing of any loan entered into pursuant to this act, the American Samoa Power Authority shall provide to the Legislature a copy of all loan documents, including, but not limited to, the loan agreement, promissory note, security agreement, mortgage and/or assignment, and legal opinion(s) and Board of Directors' minutes of meetings and resolutions pertaining to the loan.


(b) Not later than the 5th day of each month commencing the month following closing of any loan entered into pursuant to this act and continuing each month thereafter until all amounts due under any such loan have been repaid, the American Samoa Power Authority shall provide to the Legislature a loan status report covering a period for the previous month which contains:

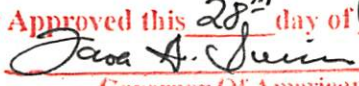
- (1) amount and source of loan proceeds received;
- (2) how loan proceeds were expended, to include the purpose, the vendor or recipient, and the amount of each expenditure;
- (3) any loan repayments of principal or interest and the source of funds used for the repayment; and
- (4) cumulative or running totals for the proceeding items.

Sec 5. Effective date.

Due to the urgent need to restore, maintain and provide necessary utility services to the people and businesses of the Territory and to ensure that the American Samoa Power Authority can finance its necessary operational costs, this act shall be effective immediately upon passage by the Legislature and approval by the Governor.


GAOTEOTE PALAIE TOFAU
President of the Senate


LAOLAGI FONOTI S. VAEAO
Vice Speaker, House of Representatives

Hereby Approved this 28th day of October 20 09

Governor Of American Samoa

NOFOA'IGA TOLUSEFULU-TASI FONOFAITULAFONO A AMERIKA SAMOA

Fono Fa'apitoa Lona Lua

Nofioia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Lua, aso sefulutolu o Oketopa
lua afe ma le iva

O SE TULAFONO E TUUINA ATU AI LE PULE/FAATAGAGA I LE MALO O AMERIKA SAMOA MO SE NOGATUPE E LE SILIA LE \$10,000,000 MO LE FAAMOEMOE INA IA TUUINA ATU AI LE FESOASOANI MANAOMIA I LE PULEAGA O LE UILA MA LE SUAVAI A O LOO FEAGAI AI MA LE TULAGA O LE LE 'A'UA'U O LE FAASOA ONA UA LAITIITI TUPE MAUA AE UA AGAI PEA I LUGA LE TAU O MEA E ALU AI LE TUPE E POGAI MAI I LE MAFUI'E MA LE GALULOLO IA SETEMA 29, 2009.

Faatomuaga:

- TALUAI, o le aso 29 o Setema, 2009 na matua faaleagaina ai e le mafuie ma le galulolo na tupu mai le nofoaga e gaosia ai le uila i Satala; ma
- TALUAI, ua matua faigata lava ma tauau ina le gafatia e ASPA ona faaoo lana auaunaga tau le uila, le suavai ma isi tautua faapea i le tele o pisinisi ma tagatanuu, ma ua mafua ai ona pa'u maulalo lana tupe maua; ma
- TALUAI, i se taumafaiga ina ia tuuititia le faalavelavea o auaunaga tau le uila ma le vai ma ia toe faafoi le maua o ia auaunaga i nofoaga na afaina ona ua motusia le tautua mai le ASPA i Satala, ua tele le tupe a le Puleaga ua faaalu ona o galuega toe faaleleia ma ua fai ma mea ua sii ai le tau o le faagaoioia o galuega a le ASPA; ma
- TALUAI, ua i ai se manaoga faanatinati ina ia tuu atu se fesoasoani tau tupe e talafeagai ai i le ASPA ina ia mafai ai ona faatupeina ana galuega seia vagana ua oo i le taimi e mafai ai e ia lava ona toe faafoi ana tupemaua ma tupe galue i se tulaga lelei; ma
- TALUAI, o loo fuafua pe oo atu ia Me 1, 2010 ua toe foi le ASPA i se tulaga lelei o ana tupemaua ma tupe faaoga.

Ona o le faanatinati o le manao ina ia toe faafoisia ma faatumauina auaunaga masani a le ASPA mo le atunuu, o lea o le a taualoa ai lenei tulafono i le taimi lava e pasia ai e le Fonofaitulafono ma faamaonia e le Kovana.

IA FAATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

Maga 1. Faatagaga/Pule.

Ua tuuina atu nei i le Malo o Amerika Samoa le faatagaga e nonoina ai se tupe pe saina foi i soo se nogatupe a le ASPA mo se aofaiga e le silia le \$10,000,000.00. O le pasene o le tupe tului, o le faasologa o le toe totogiina o le nogatupe ma isi tuutuuga i soo se maliega o le nogatupe i le va o le ASPA ma le Malo o Amerika Samoa o le a faataatia lelei mai i soo se maliega e faia e le ASPA ma le Faigamalo. E mafai foi e le Kovana ona saina o ia e fai ai ma sui o le Faigamalo i soo se maliega e faia e tusa ai ma lenei pili. A ma'ea ona ia iloiloina, o le a i ai le Kovana le pule e faamaonia ai pe teena foi soo se maliega e faaoo atu ia te ia e tusa ai ma lenei pili.

Maga 2. Faasoasoaina o tupe.

(a) O tupe uma e nonoina e le ASPA mo lenei pili o le a faaoga mo le faatauina o masini ma sapalai e tataua ona i ai atoa ai ma le suauu ina ia gaosia ai le uila, galuega tau le suavai ma isi auaunaga mo le atunuu ma faatupe ai ma isi galuega mo le faagaioia o le Puleaga i le vaitaimi lea e amata ia Setema 29, 2009 e oo atu ia Me 1, 2010.

(e) O tupe e nono mai le nogatupe e tusa ai ma le tulafono lenei e le mafai ona faaoga e totogi, toe totogi, faaopoopo pe toe faatupe ai se aitalafu sa i ai muamua a le Puleaga o le Uila ma le Suavai (ASPA) e faia ai a latou galuega ae lei faamaonia mai e le Fonofaitulafono.

Maga 3. Mea e sau ai tupe ma le faagasologa o le toe totogiina.

(a) O tupe uma e nonoina e le ASPA i lalo o lenei pili e aumaia i totonu o le teugatupe tele a le malo i totonu o le tupe a le Malo o Amerika Samoa mo le tausaga tupe 2010. A o lei aafia lava i se maliega mo le nogatupe e fai ai ma sui o le Malo o Amerika Samoa i le aumaia o se tupe mai le Ofisa o Tupe a le Malo e ave i le ASPA o le a feutaga'ia e le Kovana o Amerika Samoa ma le ASPA le faasologa o le toe totogiina o le tupe, o le pasene o le tupetului ma nisi lava tuutuuga, e aafia ai le faaogaina o tupe e faasikuea ai, e lagona e le Kovana e talafeagai ai.

(e) O se isi lava maliega o le nogatupe e faia e tusa ai ma lenei pili i le va o le ASPA ma soo se faletupe, o le Malo o le Iunaite Setete poo se isi lava vaega faa'unetupe, ae o se mea o loo saina ai le Malo o Amerika Samoa o se vaega o le nogatupe, o le a faatupe lava la lena ma toe totogi i lalo o tuutuuga e aafia ai le fa'aaogaina o tupe e fa'asikuea ai a le ASPA lava latou.

Maga 4. Lipoti.

(a) A uma loa ona tapunia soo se nogatupe na faia e tusa ai ma lenei tulafono, o le a tuuina mai e le ASPA i le Fonofaitulafono se kopi o pepa uma lava o le nogatupe, e aafia ai, ae le gata ai iina, le maliega o le nogatupe, le folafolaga o le totogiina, maliega o le mea e faamau ai, mokesi ma/poo le igoa, ma ni manatu faaloia, ma minute o fonofono a le Komiti Faafoe ma ni iugafono e faatatau i le nogatupe.


(e) E le silia i lona 5 o aso o masina taitasi e amata i le masina e sosoo ai ma le tapunia o soo se nogatupe e faia e tusa ai ma lenei tulafono ma faapea ai i masina uma e sosoo mai ai seia vagana ua uma lelei ona totogiina ni tupe o nofoaitalafu ai i lenei nogatupe, e tuuina mai e le Puleaga o le Uila ma le Suavai i le Fonofaitulafono se lipoti o le tulaga ua i ai le nogatupe i le masina ua te'a e i ai uma mea nei:

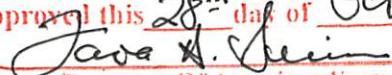
- (1) le aofai ma le mea na sau ai tupe o le nogatupe sa maua;
- (2) le mea na ave i ai le tupe ma aofai o mea uma na faaoga ai;
- (3) soo se aofai o le toe totogiina o le tino o le nogatupe poo le pasene tului ma le mea foi na sau ai le tupe lea na totogi ai; ma
- (4) aofaiga o tupe ua alu o le nogatupe.

Maga 5. Aso e taualoa ai.

Talu ai le manaoga vave ina ia toe faafoi, faatumau ma ia tuuina atu auaunaga tau le uila ma le vai e tusa ai mo tagata ma pisinisi i totonu o le Teritori ma ia mautinoa e mafai e le ASPA ona faatupe ana galuega e tatau ai, o lea o le a taualoa ai lenei tulafono i le taimi lava e pasia ai e le Fonofaitulafono ma faamaonia e le Kovana.


GAOTEOTE PALAIE TOFAU
Peresetene, Maota Maualuga


LAOLAGI FONOTI S. VAEAO
Sui Fofoga Fetalai, Maota o Sui

Hereby Approved this 28th day of October 20 09

Governor Of American Samoa