

1 employment, but does not include any individuals employed by a parent or
2 spouse or in domestic service of any person at the person's own home;

3 (4) "Representative of employees" means a labor organization or one or more
4 individuals selected by a group of employees for the purpose of collective
5 bargaining;

6 (5) "Labor organization" means any organization of employees which exists for the
7 purpose, in whole or in part, of collective bargaining or of dealing with
8 employers concerning grievances or terms or conditions of employment;

9 (6) "Labor dispute" includes any controversy concerning employment, tenure or
10 conditions or terms of employment or concerning the association or right of
11 representation of persons in negotiating, fixing, maintaining, changing, or
12 seeking to arrange terms, tenure, or other conditions of employment, regardless
13 of whether or not the relationship of employer and employee exists as to the
14 disputants;

15 (7) "Strike" means the temporary stoppage of work by the concerted action of two
16 or more employees as a result of a labor dispute;

17 (8) "Lockout" is the refusal of the employer to furnish work to employees as a result
18 of a labor dispute;

19 (9) "Commission" means the commission established under section 3 of this
20 Chapter;

1 (10) "Unfair labor practice" means an unfair labor practice defined in sections 12 and
2 13;

3 (11) "Competent evidence" means evidence admissible in a court of equity and such
4 other evidence other than hearsay as is relevant and material to the issue and is
5 of such character that it would be accepted by reasonable persons as worthy of
6 belief;

7 (12) "Professional strikebreaker" means any person who makes an offer to an
8 employer at whose place of business a labor dispute is presently in progress to
9 work as a replacement for an employee or employees involved in such labor
10 dispute;

11 **Section 3. Establishment of Commission.**

12 There is established a commissioner who shall be the Attorney General appointed
13 pursuant to the Attorney Generals Act.

14

15 **Section 4: Mediation Services**

16 (1) There is established a Mediation Services Commissioner under the supervision
17 and control of a commissioner.

18 (2) The commissioner may, from time to time, appoint special mediators (Mediation
19 Services Commission) to aid in the settlement of particular labor disputes or
20 controversies who shall have the same power and authority as the commissioner with

1 respect to such dispute and such appointment shall be for the duration only of the
2 particular dispute. Such special mediators shall be paid a per diem allowance as
3 determined by the commissioner, while so engaged and their necessary expenses.

4 **Section 5. Powers of commission.**

5 (1) The commission appointed pursuant to section 3 and 4(2) shall have the power
6 to issue subpoenas requiring the attendance and testimony of witnesses and the
7 production of evidence which relates to any matter involved in any such hearing,
8 and may by its chair administer oaths and affirmations, and may examine
9 witnesses. Such attendance of witnesses and the production of such evidence
10 may be required from any place at any designated place of hearing, but
11 whenever practical hearings shall be held in the island where the labor dispute
12 has arisen or exists.

13 (2) In case of contumacy or refusal to obey a subpoena issued under paragraph (1),
14 shall be punishable by the court as contempt thereof.

15 (3) Any party to or party affected by the dispute may appear before the commission
16 in person or by attorney or by their representative, and shall have the right to
17 offer competent evidence and to be heard on

18 **Section 6. Joining Labor Organization; Right to Collective Bargaining.**

19 (1) Employees' right of self-organization. Employees shall have the right of self-
20 organization and the right to form, join, or assist labor organizations, to bargain

1 collectively through representatives of their own choosing, and to engage in
2 lawful, concerted activities for the purpose of collective bargaining or other
3 mutual aid or protection; and such employees shall have the right to refrain from
4 any and all such activities.

- 5 (2) Employers associations. Employers have the right to associate together for the
6 purpose of collective bargaining.

7 **Section 7. Collective Bargaining Agreement.**

8 (1) Notice. When any employee or employees, or representative of employees, or
9 labor organization shall desire to negotiate a collective bargaining agreement, or
10 make any change in any existing agreement, or shall desire any changes in the
11 rates of pay, rules or working conditions in any place of employment, it shall
12 give written notice to the employer of its demand, which notice shall follow the
13 employer if the place of employment is changed, and it shall thereupon be the
14 duty of the employer and the representative of employee or labor organization to
15 endeavor in good faith to reach an agreement respecting such demand. An
16 employer shall give a like notice to employees, representative, or labor
17 organizations of any intended change in any existing agreement. If no agreement
18 is reached at the expiration of ten days after service of such notice, any
19 employees, representative, labor organization, or employer may at any time
20 thereafter petition the commissioner for mediation services to take jurisdiction
21 of the dispute and it shall be unlawful for any labor organization or

1 representative to institute or aid in the conduct of a strike or for an employer to
2 institute a lockout, unless such petition has been served by the party taking such
3 action upon the commissioner and the other parties to the labor dispute at least
4 ten days before the strike or lockout becomes effective. Unless the strike or
5 lockout is commenced within 90 days from the date of service of the petition
6 upon the commissioner, it shall be unlawful for any of the parties to institute or
7 aid in the conduct of a strike or lockout without serving a new petition in the
8 manner prescribed for the service of the original petition, provided that the 90-
9 day period may be extended by written agreement of the parties filed with the
10 commissioner.

11 A petition by the employer shall be signed by the employer or a duly authorized
12 officer or agent; and a petition by the employees shall be signed by their
13 representative or its officers, or by the committee selected to negotiate with the
14 employer. In either case the petition shall be served by delivering it to the
15 commissioner in person or by sending it by certified mail addressed to the
16 commissioner at the commissioner's office. The petition shall state briefly the
17 nature of the dispute and the demands of the party who serves it. Upon receipt of
18 a petition, the commissioner shall fix a time and place for a conference with the
19 parties to the labor dispute upon the issues involved in the dispute, and shall
20 then take whatever steps the commissioner deems most expedient to bring about
21 a settlement of the dispute, including assisting in negotiating and drafting a

1 settlement agreement. It shall be the duty of all parties to a labor dispute to
2 respond to the summons of the commissioner for joint or several conferences
3 with the commissioner and to continue in such conference until excused by the
4 commissioner, not beyond the ten-day period heretofore prescribed except by
5 mutual consent of the parties.

- 6 (2) Commissioner, powers and duties. The commissioner may at the request of
7 either party to a labor dispute render assistance in settling the dispute without
8 the necessity of filing the formal petition.

9 **Section 8. Representatives for Collective Bargaining.**

- 10 (1) To be exclusive. Representatives designated or selected for the purpose of
11 collective bargaining by the majority of the employees in a unit appropriate for
12 such purposes shall be the exclusive representatives of all the employees in such
13 unit for the purposes of collective bargaining in respect to rates of pay, wages,
14 hours of employment, or other conditions of employment, provided, that any
15 individual employee or group of employees shall have the right at any time to
16 present grievances to their employer in person or through representatives of their
17 own choosing.

- 18 (2) Certification of group representative by commissioner. When a question
19 concerning the representative of employees is raised by an employee, group of
20 employees, labor organization, or employer the commissioner of mediation

1 services or any person designated by the commissioner shall, at the request of
2 any of the parties, investigate such controversy and certify to the parties in
3 writing, the name or names of the representatives that have been designated or
4 selected. The commissioner shall decide in each case whether, in order to insure
5 to employees the full benefit of their right to self-organization and to collective
6 bargaining and otherwise to effectuate the purpose of this chapter, the unit
7 appropriate for the purpose of collective bargaining shall be the employer unit,
8 craft unit, plant unit; provided, that any larger unit may be decided upon with the
9 consent of all employers involved, and provided that when a craft exists,
10 composed of one or more employees then such craft shall constitute a unit
11 appropriate for the purpose of collective bargaining for such employee or
12 employees belonging to such craft and a majority of such employees of such
13 craft may designate a representative for such unit. Two or more units may, by
14 voluntary consent, bargain through the same agent or agents with an employer
15 or employers, their agent or agents. Supervisory employees shall not be
16 considered in the selection of a bargaining agent. In any such investigation, the
17 commissioner may provide for an appropriate hearing, and may take a secret
18 ballot of employees or utilize any other suitable method to ascertain such
19 representatives, but the commissioner shall not certify any labor organization
20 which is dominated, controlled, or maintained by an employer. If the
21 commissioner has certified the representatives as herein provided, the

1 commissioner shall not be required to again consider the matter for a period of
2 one year unless it appears to the commissioner that sufficient reason exists.

3 (3) Witnesses; powers of commissioner. In the investigation of any controversy
4 concerning the representative of employees for collective bargaining, the
5 commissioner of mediation services shall have power to issue subpoenas
6 requiring the attendance and testimony of witnesses and the production of
7 evidence which relates directly to any matter involved in any such hearing, and
8 the commissioner or representative may administer oaths and affirmations, and
9 may examine witnesses. Such attendance of witnesses and the production of
10 such evidence may be required from any place at any designated place of
11 hearing, but hearings shall be held in the High Court.

12 (4) Contempt of court. In case of contumacy or refusal to obey a subpoena issued
13 under this section, the court where the proceeding is pending or in which the
14 person guilty of such contumacy or refusal to obey is found or resides shall have
15 jurisdiction to issue to such person an order requiring such person to appear and
16 testify or produce evidence, as the case may require, and any failure to obey
17 such order of the court may be punished by the court as a contempt thereof.

18 **Section 9. Protection of Collective Bargaining Agreements.**

19 (1) Agreement protected from intervention. No employer holding a valid collective
20 bargaining agreement with any labor organization recognized or certified by the

1 commissioner of mediation services as the accredited bargaining representative
2 for the employees or any group of employees of such employer shall be required
3 to enter into negotiations with any other labor organization respecting the
4 employees covered by the existing union agreement, so long as the existing
5 agreement remains in full force and effect in accordance with its terms except
6 where a successor labor organization has been certified as the representative of
7 the employees covered by such agreement by the commissioner of mediation
8 services and recognized by the employer.

- 9 (2) Prohibition against violation. The violation of the provisions of this section by
10 any officer, business agent, employee or other representative of any labor
11 organization is prohibited

12 **Section 10. Arbitration.**

13 When a labor dispute arises which is not settled by mediation such dispute may, by
14 written agreement of the parties, be submitted to arbitration on such terms as the parties
15 may specify, including among other methods the arbitration procedure under the terms
16 of the Marshall Islands Arbitration Act or other agreed to procedure. If such agreement
17 so provides, the commissioner of mediation services may act as a member of any
18 arbitration tribunal created by any such agreement and, if the agreement so provides, the
19 commissioner may appoint one or more of such arbitrators. Either or both of the parties
20 to any such agreement or any arbitration tribunal created under any such agreement may
21 apply to the commissioner to have the tribunal designated as a temporary arbitration

1 tribunal and, if so designated, the temporary arbitration tribunal shall have power to
2 administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and
3 the production of evidence, which subpoenas shall be enforced in the same manner as
4 subpoenas issued by the commission under section 5. Any such temporary arbitration
5 tribunal shall file with the commissioner a copy of its report, duly certified by its chair.

6 **Section 11. Roster of arbitrators.**

7 The commissioner shall maintain a roster of persons suited and qualified by training and
8 experience to act as arbitrators of labor disputes and shall provide parties to a labor
9 dispute with the names of persons on the roster upon written request. The commissioner
10 shall adopt rules governing appointments to, removals from, and administration of this
11 roster.

12 **Section 12. Unfair Labor Practices: Employee.**

13 It shall be an unfair labor practice:

14 (1) for any employee or labor organization to institute a strike if such strike is a
15 violation of any valid collective agreement between any employer and its
16 employees or labor organization and the employer is, at the time, in good faith
17 complying with the provisions of the agreement, or to violate the terms and
18 conditions of such bargaining agreement;

19 (2) for any employee or labor organization to institute a strike if the calling of such
20 strike is in violation of sections 7 or 17;

1 (3) for any person to seize or occupy property unlawfully during the existence of a
2 labor dispute;

3 (4) for any person to picket or cause to be picketed a place of employment of which
4 place the person is not an employee while a strike is in progress affecting the
5 place of employment, unless the majority of persons engaged in picketing the
6 place of employment at these times are employees of the place of employment;

7 (5) for more than one person to picket or cause to be picketed a single entrance to
8 any place of employment where no strike is in progress at the time;

9 (6) for any person to interfere in any manner with the operation of a vehicle or the
10 operator thereof when neither the owner nor operator of the vehicle is at the time
11 a party to a strike;

12 (7) for any employee, labor organization, or officer, agent, or member thereof, to
13 compel or attempt to compel any person to join or to refrain from joining any
14 labor organization or any strike against the person's will by any threatened or
15 actual unlawful interference with the person, or immediate family member, or
16 physical property, or to assault or unlawfully threaten any such person while in
17 pursuit of lawful employment;

18 (8) unless the strike has been approved by a majority vote of the voting employees
19 in a collective bargaining unit of the employees of an employer or association of
20 employers against whom such strike is primarily directed, for any person or
21 labor organization to cooperate in engaging in, promoting or inducing a strike.

1 Such vote shall be taken by secret ballot at an election called by the collective
2 bargaining agent for the unit, and reasonable notice shall be given to all
3 employees in the collective bargaining unit of the time and place of election; or
4 (9) for any person or labor organization to hinder or prevent by intimidation, force,
5 coercion or sabotage, or by threats thereof, or to combine or conspire to cause or
6 threaten to cause injury to any processor, producer or marketing organization, w
7 by withholding labor. The violation of clauses (2), (3), (4), (5), (6), (7), (8) and
8 (9) are hereby declared to be unlawful acts.

9 **Section 13. Unfair Labor Practices: Employer.**

10 It is an unfair labor practice for an employer:

- 11 (1) to institute a lockout of its employees in violation of a valid collective
12 bargaining agreement between the employer and its employees or labor
13 organization if the employees at the time are in good faith complying with the
14 provisions of the agreement, or to violate the terms and conditions of the
15 bargaining agreement;
- 16 (2) to institute a lockout of its employees in violation of section 7 or 17;
- 17 (3) to encourage or discourage membership in a labor organization by
18 discrimination in regard to hire or tenure of employment or any terms or
19 conditions of employment; provided, that this clause does not apply to the
20 provisions of collective bargaining agreements entered into voluntarily by an

1 employer and its employees or a labor organization representing the employees
2 as a bargaining agent, as provided by section 8.

3 (4) to discharge or otherwise to discriminate against an employee because the
4 employee has signed or filed an affidavit, petition, or complaint or given
5 information or testimony under this chapter;

6 (5) to spy directly or through agents or any other persons upon activities of
7 employees or their representatives in the exercise of their legal rights;

8 (6) to distribute or circulate a blacklist of individuals exercising a legal right or of
9 members of a labor organization for the purpose of preventing individuals who
10 are blacklisted from obtaining or retaining employment;

11 (7) to engage or contract for the services of a person who is an employee of another
12 if the employee is paid a wage that is less than the wage to be paid by the
13 engaging or contracting employer under an existing union contract for work of
14 the same grade or classification;

15 (8) willfully and knowingly to utilize a professional strikebreaker to replace an
16 employee or employees involved in a strike or lockout at a place of business
17 located within the Republic; or The violation of clause (2), (4), (5), (6), (7), or
18 (8) is an unlawful act.

19

1 **Section 14. Labor-management committees.**

2 The commissioner may provide technical support and assistance to voluntary joint
3 labor-management committees established for the purpose of improving relationships
4 between unions and employers at area, industry, or work-site levels.

5 **Section 15. Receipt of gifts, money; appropriation.**

6 (1) The commissioner may apply for, accept, and disburse gifts, bequests, grants, or
7 payments for services from the Government, international organizations, other
8 nations, private foundations, or any other source.

9 (2) Money received by the commissioner under this subdivision must be deposited
10 in a separate account for workforce skills and the amount deposited, including
11 investment earnings, shall also be appropriated to the commissioner to carry out
12 duties of the commissioner.

13 (3) The commissioner must post and maintain list of the sources of funds and
14 amounts received under this subdivision.

15 **Section 16. Political activities forbidden.**

16 Any mediator, under the provisions of this Act who exerts personal influence, directly
17 or indirectly, to induce any other person to adopt the mediator's political views, or to
18 favor any particular candidate for office, or to contribute funds for political purposes
19 shall forthwith be removed from office or position by the appointing authority;

1 provided, that before removal the commissioner of mediation services shall be entitled
2 to a hearing before the commissioner, and any other employee shall be entitled to a
3 similar hearing before the commissioner of mediation services.

4
5 **Section 17. Labor dispute affecting Public Interests; Procedure.**

6 If the dispute is in any industry, business, or institution affected with a public interest,
7 which includes, but is not restricted to, any industry, business, or institution engaged in
8 supplying the necessities of life, safety, or health, so that a temporary suspension of its
9 operation would endanger the life, safety, health, or well-being of a substantial number
10 of people of any community, the provisions of section 7 shall apply. The commissioner
11 may appoint a fact finding commission composed of three members to conduct a
12 hearing and make a report on the issues involved and the merits of the respective
13 contentions of the parties to the dispute. If the commissioner decides to appoint a
14 commission, the commissioner shall immediately notify the parties to the labor dispute.
15 The members of such commission shall on account of vocations, employment, or
16 affiliations be representatives of employees, employers, and the public, respectively. If
17 and when the commissioner notifies the parties of the decision to appoint a commission,
18 neither party to the dispute shall make any change in the situation affecting the dispute
19 and no strike or lockout shall be instituted until 30 days after the commissioner's
20 notification to the parties. If the commissioner fails to appoint a commission within five
21 days after notification to the parties, this limitation on the parties shall be suspended and

1 inoperative. If the commissioner thereafter appoints a commission, no strike or lockout
2 having been instituted in the meantime, the limitation shall again become operative, but
3 in no case for more than the original 30-day period. The 30-day period may be extended
4 by stipulation of the parties to the labor dispute, which shall be filed with the
5 commissioner. The commission shall meet within five days of its appointment by the
6 commissioner and conduct the hearings which are necessary to render its report on the
7 issues involved and merits of the contentions of the parties. The report of the
8 commission shall be filed with the commissioner not less than five days prior to the end
9 of the 30-day period set forth above or any extension thereof. The commissioner shall
10 provide copies of the report to the parties to the dispute and may make the report public.
11 the issues before the report of the commission is made.

12 **Section 18. Jurisdictional controversies.**

13 Whenever two or more labor organizations adversely claim for themselves or their
14 members jurisdiction over certain classifications of work to be done for any employer
15 or in any industry, or over the persons engaged in or performing such work and such
16 jurisdictional interference or dispute is made the ground for picketing an employer or
17 declaring a strike or boycott against the employer, the commissioner may appoint a
18 labor referee to hear and determine the jurisdictional controversy. If the labor
19 organizations involved in the controversy have an agreement between themselves
20 defining their respective jurisdictions, or if they are affiliated with the same labor
21 federation or organization which has by the charters granted to the contending

1 organizations limited their jurisdiction, the labor referee shall determine the controversy
2 in accordance with the proper construction of the agreement or of the provisions of the
3 charters of the contending organizations. If there is no agreement or charter which
4 governs the controversy, the labor referee shall make such decision as, in consideration
5 of past history of the organization, harmonious operation of the industry, and most
6 effective representation for collective bargaining, will best promote industrial peace. If
7 the labor organizations involved in the controversy so desire, they may submit the
8 controversy to a tribunal of the federation or labor organization which has granted their
9 charters or to arbitration before a tribunal selected by themselves, provided the
10 controversy is so submitted prior to the appointment of a labor referee to act in the
11 controversy. After the appointment of the labor referee by the commissioner, or the
12 submission of the controversy to another tribunal as herein provided, it shall be
13 unlawful for any person or labor organization to call or conduct a strike or boycott
14 against the employer or industry or to picket any place of business of the employer or in
15 the industry on account of such jurisdictional controversy.

16 **Section 19. Operation of Vehicle where Dispute is in Progress.**

17 Any person who operates a motor vehicle which is entering or leaving a place of
18 business or employment where there is a clear notice that a labor dispute is in progress,
19 and who fails to bring the vehicle to a full stop at the entrance to or exit from that place,
20 or who fails to exercise caution in entering or leaving that place, is guilty of a
21 misdemeanor.

1 **Section 20. Interferences which are Unlawful.**

2 (1) Unlawful acts. It shall be unlawful for any person at any time to interfere with
3 the free and uninterrupted use of public roads or methods of transportation or
4 conveyance or to wrongfully obstruct ingress to and egress from any place of
5 business or employment.

6 (2) Unfair labor practice. It is an unfair labor practice for any employee or labor
7 organization to commit an unlawful act as defined in this Act.

8 **Section 21. Injunctions; Temporary Restraining Orders.**

9 When any unfair labor practice is threatened or committed, a suit to enjoin such practice
10 may be maintained in the High Court. In any suit to enjoin any of the unfair labor
11 practices set forth in sections 12 and 13, the provisions of section 2 shall not apply. No
12 court shall have jurisdiction to issue a temporary or permanent injunction in any case
13 involving or growing out of the violation of sections 12 and 13 as herein defined, except
14 after hearing the testimony of witnesses in open court, with opportunity for cross-
15 examination, in support of the allegations made under oath, and testimony in opposition
16 thereto, if offered, and except after findings of fact by the court to the effect that the acts
17 set forth in sections 12 and 13 have been threatened and will be committed unless
18 restrained, or have been committed and will be continued unless restrained. No
19 temporary restraining order may be issued under the provisions of this Act except upon
20 the testimony of witnesses produced by the applicant in open court and upon a record

1 being kept of such testimony nor unless the temporary restraining order is returnable
2 within seven days from the time it is granted which shall be noted on the order of the
3 court. It shall be the duty of the court to give the trial or hearing of any suits or
4 proceedings arising under this section precedence over all other civil suits which are
5 ready for trial. Failure of the trial court to decide a motion for a temporary injunction
6 within seven days from the date the hearing thereon is concluded shall dissolve any
7 restraining order issued therein without further order of the court. Failure of the trial
8 court to decide any suit brought under this section within 45 days from the date the trial
9 was ended shall dissolve any restraining order or temporary injunction issued therein
10 without further order of the court.

11 **Section 22. Violators Not Entitled to Benefits of Certain Sections.**

12 Any employer, employee, or labor organization who has violated any of the provisions
13 of this Act with respect to any labor dispute shall not be entitled to any of the benefits of
14 this Act respecting such labor disputes and such employer, employee, or labor
15 organization shall not be entitled to maintain in any court an action for injunctive relief
16 with respect to any matters growing out of that labor dispute, until good faith use is
17 made of all means available under the laws of the Republic for the peaceable settlement
18 of the dispute.

1 Section 23. Effective Date.

2 This Act shall take effect upon certification in accordance with Article IV, Section 21 of
3 the Constitution.

4

5 Date: Feb. 11, 2014

Introduce by:

6

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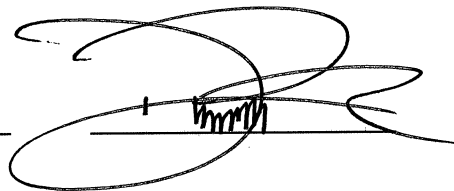
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DAVID PAUL




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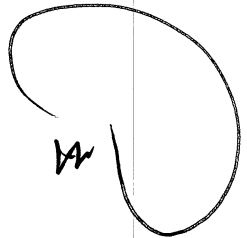
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Sherwood Tibon



~~Allen~~ Daisy Alike Momotaro

Leander Leander Jr



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BILL SUMMARY

2 The purpose of this Bill is to provide a legal framework for employees in the Republic of the
3 Marshall Islands to engage in collective bargaining and to enter into collective bargaining
4 agreements with their employers; to govern the employer-employee relationship; and for related
5 purposes.

6 Currently, the employees and employers in the Marshall Islands does not have collective
7 bargaining arrangement for any labor disputes that arises in the course of employment. The bill
8 ensures that employee exercise their collective bargain rights to any dispute relating to labor.

9