

Chapter 14

Government Employees' Retirement Fund

Section:

7.1444.4 Credit facility authorization—Assistance—American Samoa Medical Center Authority.

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(a) In accordance with the provisions of section 7.1444(g)(3), which limits any investment in obligations or other instruments issued or guaranteed by the government to no more than ten percent of fund assets at cost, the Governor, on behalf of the American Samoa Government (ASG), and the Board of Directors of the American Samoa Government Employees Retirement Fund (ASGERF) are authorized to enter into a credit facility whereby, the ASGERF will lend and ASG will borrow an amount of \$10,000,000.

(b) The Governor, the Treasurer and the Chief Financial Officer for the American Samoa Medical Center are authorized to negotiate the terms of the credit, including an interest rate, repayment terms and such other terms and conditions as may be required to obtain the credit facility, except that the interest rate must be tied to the current actuarial rate of return and the interest rate shall not be less than 8% per annum. The Governor, the Treasurer and the Chief Financial Officer for the American Samoa Medical Center and the ASGERF Board are further authorized to execute all instruments and documents necessary to conclude the transaction, including promissory notes which evidence indebtedness of ASG. The Governor is authorized to pledge the full faith and credit of ASG as well as to provide collateral as required by the ASGERF Board to secure the loan.

(c) The loan proceeds shall be placed in an earmarked fund and used exclusively for the following purposes and in the following priority:

(1) debts, obligations and payables accumulated and owing to appropriate American Samoa Medical Center Authority (ASMCA) vendors, amounts not to exceed:

(A) Contingent—Liabilities	
(B) Contingent—Liabilities Penalty & Interest	
Total	\$1,800,000
(C) Vendor—Liabilities:	
(i) SRW Industries	
(ii) SPHI (Pharmacy consultant)	
(iii) HPMR (Third party off-island Administrator)	
(iv) KPMG, LLP 2003-2005 Audit fees	
(v) ASPA	
Total Liabilities	<u>\$5,000,000</u>
Total expenditures	\$6,800,000

(2) Continuing Operation of ASMCA	\$1,700,000
(3) Matching funds	<u>\$1,500,000</u>
Total	\$10,000,000

(d) The Governor, the Treasurer and the Chief Financial Officer for the American Samoa Medical Center shall be authorized to expend proceeds of the loan to satisfy only the debts, obligations and payables accumulated and owing to ASMCA vendors as provided for in 7.1444.4(c)(1)(A)-(C) above and any surplus or remaining funds shall be utilized for the following specific purposes, in descending order of priority:

- (1) purchasing diagnostic equipment;
- (2) purchasing treatment equipment;
- (3) paying for capital improvement projects, excluding housing projects; and equipment and continuing operation of ASMCA shall be provided directly to ASMCA and a full accounting of the said expenditures shall be made by ASMCA to Governor and the Legislature with full supporting documentation. The ASMCA shall enter into a fiscal and operations reform plan with ASG, which shall be approved by the Governor, whereby ASMCA will implement procedures to increase its revenues, reduce its expenditures, achieve a balanced budget and improve the operations of ASMCA (“ASMCA Fiscal and Operations Reform Plan”). The Plan shall be submitted within six (6) months of the date of the loan.

History: 2005, PL 29-14; 2006, PL 29-21.

Amendments:

7.1444.4 A.S.C.A. was inadvertently created twice by PL 29-14 and PL 29-21.

Reviser’s Comments:

- Sec. 3 PL 29-21 creates Appropriation of revenue – Source of funding – Payments in lieu of taxes.
- Sec. 4 PL 29-21 Lack of ASTCA revenues – Avoidance of default.
- Sec. 5 PL 29-21 Sunset clause. ASTCA’s payment of \$1,100,000 as set forth in this Act shall cease upon the full payment of all principal and interest of the credit facility entered into between ASG and ASGERF in accordance with 7.1444.4(a) and (b) above.
- Sec. 6 PL 29-21 repeals sections 7.1444.2, 15.0301 and 15.0302 A.S.C.A.
- Sec. 7 PL 29-21 Effective date. Due to the urgent need to provide financial assistance to ASMCA, this act shall become effective upon passage by the Legislature and approval by the Governor.