

FIFTH HATOHOBEL STATE LEGISLATURE

Republic of Palau
Third Regular Session
September, 2001

BILL NO. 5-1R-04,D2

AN ACT

To established the management and conservation of the natural resources of the Helen Reef, and for other related purposes.

OFFERED BY: Committee of the Whole ET, ALDATE INTRODUCED: September 20, 2001FIRST READING: September 13, 2001REFERRED TO: IGA & SRW COMMITTEESSTANDING COMMITTEE REPORT Nos. IDATE ADOPTED: September 13, 2001SECOND READING: September 21, 2001LEGAL FORMAT: OKTHIRD READING: October 23, 2001

SEND TO Gov.
Return From
Override Vote:

November 21, 2001Become Law

CONFERENCE COMMITTEE ACTION

Date: November 21, 2001Committee Report Nos. I-141 & SR-224Date Passed: November 21, 2001


Legislative Clerk
5th State Legislature

AN ACT

To establish the management and conservation of the natural resources of the Helen Reef, and for other related purposes.

BE IT ENACTED BY THE HATOHOBEL STATE LEGISLATURE:

1 Section 1. Short Title. This Act shall be known as the Helen Reef Management
2 Act.

3 Section 2. Purposes. The purpose of this Act is to provide for the conservation,
4 restoration, and wise sustainable use of the natural resources of Helen Reef, sustainable
5 economic benefits for the Hatohobei community.

6 Section 3. Findings. The Hatohobei State Legislature finds that the natural
7 resources of Helen Reef are of special importance and value to the Hatohobei community.
8 The marine, terrestrial species and their habitat contribute to populations growth through-
9 out the region; the diverse and abundant fishes and marine life that reside and reproduce
10 there provide sustenance for the people of Hatohobei, which contribute to the world's
11 under water richness and offer the potential for non-extractive and sustainable uses for
12 tourism, such as diving and sports fishing, that are beneficial to the people of Hatohobei
13 and the Republic.

14 Section 4. Definition. For the purposes of this Act,

15 4.1 "commercial purposes" means for the purpose or with the intention of
16 gaining financial or material compensation, including, but not limited to salary, wages,
17 fees, cash, or material goods.

18 4.2 "natural resources" means any marine and terrestrial living and non-living
19 things.

20 4.3 "to fish" means to take, catch, harass, harvest, fish, or to attempt to take,
21 catch, or harvest fish using any method whatsoever;

22 4.4 "Governor" means the Governor and the Lieutenant Governor of Hatohobei
23 State;

24 4.5 "Legislature" means the Hatohobei State Legislature;

25 4.6 "Hatohobei/Management Conservation Officer" means a person who has been
26 deputized by the Minister of Justice or his designee and designated in writing by the

1 Governor and whose duties are to enforce the provisions of this Act and applicable laws
2 of Hatohobei State and National Law.

3 4.7 "pollutant" means any chemical, poison, synthetic material, or other substance
4 with a potentially deleterious effect on living resources, including, but not limited to,
5 petroleum products, bilge water, liquid waste, sewage, tailings spoils, garbage, and
6 solid waste.

7 4.8 "Reserve" means the Helen Reef Management areas established by this Act.

8 **Section 5. Helen Reef Resource Management Established.** There is hereby
9 established the Helen Reef Reserve, comprising all the land and marine areas within 1
10 (one) nautical mile of the seaward edge of the reef surrounding Helen Reef. 'A map
11 showing the approximate boundaries of the Reserve is attached to this Act, as
12 Exhibit A and incorporated herein.

13 **Section 6. Prohibitions.**

14 6.1 No person shall fish within the Reserve during the three year
15 interim period starting with the effective date of this Act. Failure to comply with this
16 provision shall be considered a violation on the part of the person fishing, the boat
17 operator, and if the fishing is for commercial purposes, the boat owner. Exceptions to this
18 prohibition are provided for persons engaged in the monitoring of fishes, as directed by
19 Governor and with the specific written prior authorization of the Governor.

20 6.2 No person shall camp or light or maintain a fire within the Reserve during the
21 three year period starting with the effective date of this Act.

22 6.3 No person shall spill or dispose of any pollutant in the Reserve or cause any
23 pollutant to enter the Reserve.

24 6.4 No person shall enter the Reserve at any time during the three year period
24 starting with the effective date of this Act. Exceptions of this prohibition are provided in
25 the following sections.

1 Section 7. Exemption and Limits.

2 7.1 The following shall be exempt from the prohibitions set forth in the foregoing
3 Section 6. Hatohobei Conservation Officers while engaged in enforcement monitoring,
4 research, training, or other activities directly related to the purposes, of this Act;

5 7.2 Enforcement officers of the Palau National Government while enforcing this
6 Act, and;

7 7.3 Persons engaged in monitoring, research, training, or other activities directly
8 related to the purposes of this Act and specifically authorized in writing by the Governor.

9 7.4 Persons in need of emergency shelter due to weather conditions or problems
10 with their vessel.

11 7.5 Person aboard the state vessels or other transport vessel in need of anchorage
12 during normal operation.

13 7.6 The harvest of two (2) green turtles for per State function is allowed but not
14 more than 5 per year and only if they are not available from other sites in Hatohobei
15 proper.

16 (a) The maximum of only two (2) green turtles for per State Function shall
17 be captured within the Helen Reef Reserve Area, and shall be only in accordance to the
18 National Law (24 PNCA Section 1201).

19 (b) The Governor shall request such specified exceptions of this section
20 after consultation with the Hatohobei State Legislature.

21 7.7 Persons engage in the Helen Reef Management/Conservation Project shall
22 allowed to fish within the restricted area only for food while they are on Helen Reef but
23 shall not remove or transport anything there from.

24 Section 8. Penalties:

25 8.1 Criminal Penalties:

26 (a) Any person who violates sub-section 6.1, 6.2, 6.3, or 6.4 of Section 6
27 of this Act shall, upon conviction, be subject to a fine of not more than \$100.00 or
28 sentenced to serve up to 90 days in jail, or both.

29

1 (b) Any person who is found by the Supreme Court in a civil proceeding to
2 have committed an act prohibited by this Act, his employer, principal, superior, or super-
3 visor if the violation was committed as part of a commercial operation or enterprise, and
4 any person who aids or abets in such violation, shall be liable to Hatohobei State for a civil
5 penalty which shall not exceed \$200,000.00 for each violation.

6 © In determining the amount of such penalty, the Supreme Court shall take
7 into account the nature, circumstances, extent, and gravity of the prohibited acts committed
8 and, with respect to the violators, the degree of culpability, any history of prior offenses,
9 and such other matters as justice may require.

10 (d) The Attorney General and Special Prosecutor of the Republic of Palau
11 are authorized to initiate all civil proceedings under this section and to recover the amount
12 assessed as a civil penalty.

13 (e) Any person or entity which pays taxes in the Republic of Palau may
14 bring a civil action in the Supreme Court to enforce the provisions of Section 6 of this Act.
15 A taxpayer prevailing in such an action shall be awarded reasonable costs and attorneys'
16 fees against defendant (s) in an amount to be determined by the Court.

17 (f) All civil penalties collected pursuant to this Act shall be deposited in the
18 Hatohobei State Treasury. All revenues collected pursuant to this Act shall be deposited in
19 the Hatohobei State Treasury and shall be used solely for the purposes of this Act.

20 **Section 9. Creation of Helen Reef Resource Management Board.**

21 Within six (6) months of the effective date of this Act, the Governor shall appoint a
22 Helen Reef Resource Management Board consisting of five members. One member shall
23 be appointed from the Legislature, one member from the State Executive, and the remain-
24 ing three (3) members shall be chosen from the Hatohobei community with the consent of
25 the Legislature by a single resolution. Furthermore, those members chosen from the com-
26 munity must agree willingly to be a part of the Board and agree to be present for all activi-
27 ties and meetings related to this Act.

28 The members appointed from the Executive and Legislative Branch will consider
29 their involvement in the Board an extension of their positions in the Legislature and
30 Executive respectively. Thus all Board Members will not receive compensation for their

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2 have committed an act prohibited by this Act, his employer, principal, superior, or super-
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27 ties and meetings related to this Act.

28 The members appointed from the Executive and Legislative Branch will consider
29 their involvement in the Board an extension of their positions in the Legislature and
30 Executive respectively. Thus all Board Members will not receive compensation for their

1 activities on the Board.

2 **Section 10. Duties and Responsibilities of the Board.**

3 10.1 Within a reasonable amount of time subsequent to the effective date of this
4 Act, the Board shall install permanent buoys or markers within the boundaries of the
5 Reserve, which indicate the extent, and location of the Reserve.

6 10.2 The Board shall designate no fewer than two persons as Hatohobei Conser-
7 vation Officers. Persons designated as Hatohobei Conservation Officers (HCO's) need
8 not be employees of the State. HCO's shall have contracts written by the Board and signed
9 by both the officer and an appointed member of the Board. The duties of the HCO's will
10 be stated in their contracts. Primary duties shall include, but not limited to patrolling the
11 Reserve and issuing citations to violators. Secondary duties may include conducting the
12 resource monitoring program and other activities related to the management of the
13 Reserve, as directed by the Board. The Board shall provide all HCO's with appropriate
14 Training in enforcement methods and other needed skills. HCO's shall be compensated
15 by the State of Hatohobei at a rate to be determined by the Board within applicable laws.
16 The Board may hire necessary supporting staffs.

17 10.3 The Board shall review all applications for entry into the Reserve pursuant to
18 Section 7.3, and may issue written recommendation to the Governor for entry on a case by
19 case basis. A written permission from the Governor to enter Helen Reef vicinity may only
20 be granted for activities that are consistent with the purposes of this Act. After consulta-
21 tion with the Board, the Governor may place additional restrictions on individual authori-
22 zation.

23 10.4 The Board shall design and implement a resource monitoring program within
24 hundred eighty (180) days after the effective date of this Act, to monitor the status of the
25 resources within the Reserve. The Board may enlist outside assistance of appropriate
26 agencies, organizations, and others in the design and implementation of this monitoring
27 program.

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1 **10.5** Within three years of the effective date of this Act, the Board shall prepare
2 and adopt a long-term management plan for the Helen Reef. The Board shall seek the
3 assistance of appropriate agencies and organizations in the preparation of the management
4 plan. The plan shall include, but not be limited to, the following elements:

5 (a) An overall goal and specific management objectives for the Helen Reef.

6 (b) Regulations governing the uses and users of the Helen Reef such as
7 visiting, camping, fishing, diving, tourism, and physical development;

8 (c) A strategy for enforcing the provisions of this Act;

9 (d) A strategy for procuring funds, materials, and/or services to be used to
10 manage the Helen Reef;

11 (e) A strategy for increasing public awareness of the Reserve;

12 (f) Potential areas of cooperation among the agencies of the national and
13 various state governments and non-governmental organizations;

14 (g) An assessment of compliance with the restrictions of this Act and details
15 of enforcement activities during the three year closure period;

16 (h) A summary of expenditures made on enforcement, monitoring, and all
17 other activities related to management of the Helen Reef during the three year closure
18 period; and

19 (i) Other projects or activities needed to attain the management objectives
20 of the project.

21 (j) A progress report on the project and its revenue/expenditures shall be
22 submitted to Hatohebel State Government every six (6) months.

23 (k) Meetings of the Board shall be held every fifteenth of the month and
24 whenever necessary upon the call of the chair or by quorum of the members.

25 (l) Upon adoption of the management plan by the Legislature, the Board
26 shall implement the management plan.

27 **Section 11. Adoption of Management Plan.**

28 11.1 The management plan shall become effective upon its adoption by the
29 Hatohebel State Legislature.

1 11.2 Prior to adoption of the management plan or of any revisions to it, the
2 Governor shall:

3 (a) give at least 30 days' public notice of the proposed plan by posting
4 notice of the plan in the offices of the Governor in both Hatohobei and Koror. The notice
5 shall also be read over the radio broadcasting station at Koror of five consecutive calendar
6 days within the first 15 days after it is posted. Such notice shall be in English and Palauan
7 and shall include: a short statement of the substance of the proposed plan; reference to
8 this Act; when, where, and how interested persons may present their views regarding the
9 proposed plan; and where copies of the proposed plan will be available for reading and
10 distribution to the public;

11 (b) make copies of the proposed plan available for reading at the offices of
12 the Governor in both Hatohobei and Koror; and

13 (c) for at least 30 days after providing notice under this section, afford all
14 interested persons the opportunity to submit data, views, or arguments, in writing.

15 11.3 The Legislature shall conduct a public hearing on the proposed management
16 plan. The Legislature shall consider fully all written and verbal submissions concerning
17 the proposed management plan.

18 11.4 All rules, regulations, and procedures included in the adopted management
19 plan, and in any of its adopted revisions, shall have the full force and effect of law.

20 11.5 No less often than once every five years, the Governor shall review the
21 management plan and progress in attaining its objectives and submit a report of that review
22 to the Legislature. Based on such reviews, the Governor may prepare proposed revisions to
23 the management plan at any time.

24 11.6 The Legislature may adopt revisions to the management plan at any time, but
25 only after satisfying the procedures stated in sub-sections 11.2(a) through (c) of this Section.

26 11.7 Copies of the adopted management plan and any adopted revisions shall be
27 made available for public inspection at the offices of the Governor in both Koror and
28 Hatohobei.

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1 **Section 12. Enforcement.** Enforcement of the provisions of this Act is the
2 responsibility of the Governor and of the Palau National Government.

3 **12.1** Hatohebel Conservation Officers have the authority to issue citations and
4 make arrests of persons suspected of violating any provision of this Act, and to bring
5 actions in court to enforce this Act.

6 **12.2** The Governor shall, within one month of the effective date of this Act,
7 formally request the Palau Ministry of Justice and the Palau Ministry of Resources and
8 Development to assist in the enforcement of this Act. These ministries shall be requested
9 to do the following:

10 (a) assist in patrolling the Reserve;

11 (b) make arrests of suspected violators of the provisions of this Act; and

12 (c) prosecute suspected violators of the provisions of this Act.

13 (d) Each person entering the Reserve for enforcement purposes shall
14 maintain a log of activities within the Reserve, including dates and times of arrival and
15 departure, encounters with any persons, and other enforcement activities. A copy of the log
16 shall be submitted to the Governor within one month of the date of entry into the Reserve.

17 **Section 13. Effective Date.** This Act shall take effect upon its approval by the
18 Governor or Lieutenant Governor in his absence or upon its becoming law without such
19 Approval, except as otherwise provided by law.

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22 Passed: October 23, 2001

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24 Approved this _____ day of _____, 2001.

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Sabino J. Sackarias
Governor
Hatohebel State

HELEN REEF

From a Japanese Government Chart of 1927.
With additions and corrections from U.S. Gov't Charts to 1971.

Magn. Var. $2^{\circ}00'$ E. (1975) decreasing about 1' annually

NATURAL SCALE 1:145,000 (at Lat. $2^{\circ}55'$)

Projection - Mercator

