

STANDING COMMITTEE REPORT NO. 13-181

RE: C.B. NO. 13-153/J&GO

SUBJECT: PROFESSIONALS PREMIUMS

OCTOBER 26, 2004

The Honorable Peter M. Christian
Speaker, Thirteenth Congress
Federated States of Micronesia
Fourth Regular Session, 2004

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations
(``J&GO''), to which was referred C.B. No. 13-153, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 52 OF THE CODE OF
THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY AMENDING
SECTIONS 112, 163, AND 207 THEREOF, AND BY REPEALING SECTION
208 THEREOF, TO MODIFY AND CLARIFY THE PREMIUMS PAYABLE TO
CERTAIN PUBLIC SERVICE EMPLOYEES, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The intent and purpose of the bill are expressed in its title.

The subject bill would amend sections 112, 163 and 207 and
repeal section 208 of title 52 of the Code of the FSM. The
proposed changes would ensure that all public service employees
have equal access to the professional premium in accordance with
their qualifications and experience, regardless of whether they
trained in the USA or another country. The proposed amendments

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would also enable the allottee for the appropriation used to fund a position to determine the rate of any professional or market place premium paid.

A public hearing in relation to this bill was held on October 19, 2004.

Eligibility for professional premium

The eligibility criteria currently set out in subsection 163(3), make a lawyer who graduates from a U.S. law school immediately eligible for professional premium after becoming a member of a U.S. Bar or the FSM Bar. Any lawyer trained outside the U.S. must have at least four-years' experience before becoming eligible. Similarly, accountants are eligible for a professional premium only if they hold a license recognized by the U.S. During the hearing, your committee appointed a working group, including representatives from the Executive Branch, the Public Auditor's Office and the Congressional Staff to advise the Committee on a number of issues. In the view of your Committee, subsection 163(3), in its current form, discriminates against professionals from countries other than the USA. The proposed amendments would remedy this problem by broadening the eligibility criteria to include accountants, lawyers and engineers who received their training outside the USA.

Your Committee recognizes that relaxing the restrictions on eligibility for the professional premium too much could potentially lead to a diminution in the quality of professional staff employed by the national public services. However, your Committee considers that if the changes proposed in the C.D.1 version of C.B. 13-153 are adopted there will be sufficient safeguards in place to prevent this from occurring.

The safeguards include the requirement that to be eligible for the professional premium, a lawyer must have a bachelors degree from a law school which is accredited by the competent authority and be admitted to practice law. Like wise, engineers must have

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completed four years study at an accredited educational institution. Finally, the C.D.1 version of the subject bill would require an accountant to be full member of one of a number of internationally recognized professional associations, or have his or her qualifications and experience certified by the Public Auditor to be equivalent to those required to gain full membership of such body.

Determining the rate of market place and professional premiums

Section 163 of title 52 of the Code of the FSM currently provides that the rate of a market place premium is to be determined by the Secretary of the Department of Finance. In the case of professional premiums, regulation 8.12 of the Public Service Regulations provides that the rate of a professional premium shall be 90% of the eligible employee's base salary.

Your Committee considers that it is desirable to ensure the allottee of the funds from which the employee is to be paid has the capacity to determine the rate of market place and professional premiums to be paid to eligible employees. The proposed amendments to section 163 would allow the allottee to use his or her knowledge of an employee's skills and the financial position of the agency in determining the appropriate rate of a premium.

At the public hearing, concerns were expressed that increasing the discretion of allottees in relation to professional and market place premiums would lead to discrepancies and variations between agencies. Your Committee has been advised by its working group that oversight by the Public Auditor of the rates of premiums paid and a capped maximum rate for each premium would address these concerns. The C.D.1 version of the subject bill reflects this.

Your Committee notes that if C.B. 13-153 C.D.1 is passed it will be necessary for two amendments to the Public Service Regulations to be made. First, it will be necessary to

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incorporate the list of internationally recognized professional associations referred to in paragraph 163(3)(b). It would also be advisable to amend regulations 8.12 which is inconsistent with the proposed amendments to section 163 and which would therefore be rendered partially inoperative.

Your Committee has given serious consideration to this bill and its purpose. Your committee, therefore, recommends the following changes as amendments to C.B. No. 13-153:

1. Page 5, line 20 - after "conditions in the" replace "place" with "country".

This change will ensure consistency throughout subsection 163(1).

2. Page 6, line 7 - after "premium." insert "The amount of the premium determined by the allottee shall not be greater than 90% of the value of the employee's base salary.".
3. Page 6, line 24 - after "expertise." insert "The amount of the premium determined by the allottee shall not be greater than 90% of the value of the employee's base salary.".
4. Page 7, lines 5 and 6 - after "degree in Law from" replace "an accredited law school" with "a law school accredited by the competent authority in the jurisdiction in which it operates".
5. Page 7, line 12 to 16 - delete "attainment of an earned professional certification or license authorizing the employee to practice public accountancy in any jurisdiction" and insert "full membership of one or more of the professional accountancy associations listed in the Public Service

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Regulations, as amended from time to time, or certification by the Public Auditor that the employee's qualifications and experience are equivalent to those which would be required to obtain full membership of such an association.''.

6. Page 7, line 24, after ``field'' insert a new line ``(4) The Public Auditor will conduct an annual audit of all professional and market place premiums being paid to public service employees. The audit findings shall be transmitted to the President and Congress.''. .

With the foregoing amendments, your Committee is in accord with the intent and purpose of C.B. No. 13-153 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading in the form attached hereto as C.B. No. 13-153, C.D.1.

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Respectfully submitted,

/s/ Dohsis Halbert
Dohsis Halbert, Chairman

/s/ Roosevelt D. Kansou
Roosevelt D. Kansou, vice chairman

/s/ Alik L. Alik
Alik L. Alik, member

/s/ Henry C. Asugar
Henry C. Asugar, member

/s/ Peter M. Christian
Peter M. Christian, member

/s/ Ramon Peyal
Ramon Peyal, member