

STANDING COMMITTEE REPORT NO. 15-162

RE: C.B. NO. 15-62/JGO

SUBJECT: APPOINTMENT OF JEMCO MEMBERS

DECEMBER 01, 2008

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
Fifth Special Session, 2008

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.B. No. 15-62, entitled:

"A BIL FOR AN ACT TO PROVIDE FOR THE APPOINTMENT OF THE FSM REPRESENTATIVES TO THE JOINT ECONOMIC MANAGEMENT COMMITTEE AND THE JOINT TRUST FUND COMMITTEE IN ACCORDANCE WITH THE COMPACT OF FREE ASSOCIATION, AS AMENDED BETWEEN THE FEDERATED STATES OF MICRONESIA AND THE UNITED STATES, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

The bill would require the President to appoint the FSM representatives to the Joint Economic Management Committee (JEMCO) and the Joint Trust Fund Committee created under the Compact of Free Association, as amended. Presently, the President may appoint the representatives without Congressional advice and consent. However, in light of the important roles that JEMCO and the Joint Trust Fund Committee play, especially with respect to the economic development and security of this Nation, the President finds it imperative to involve Congress in the selection of this Nation's representatives to the two committees. He therefore nominated Secretary Lorin Robert as a JEMCO representative. It is anticipated that other nominations will be submitted in due course.

The pending nomination, however, cannot be acted upon unless the necessary enabling legislation is enacted. It is therefore critical that C.B. No. 15-62 is considered first before any nominations to the two committees are considered by Congress.

Your Committee concurs with the President's view and determines that it is in the interest of Congress and the Nation to scrutinize the qualifications and abilities of FSM's representatives to the two committees.

The bill proposes to require the advice and consent of Congress on the two representatives appointed by the President to each committee. The President would appoint two FSM representatives to JEMCO, one representing the National Government and the other from a list of nominees submitted by the states from which the President appoints.

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The bill sets forth the qualifications of a FSM JEMCO representative as follows: A representative shall be (1) a citizen of the FSM; and (2) has knowledge in finance, accounting, and economic principles and acceptable written and verbal communication skills. A representative serves for a term of 2 years and may be reappointed for not more than two consecutive terms.

The President appoints two representatives to the Joint Trust Fund Committee, one by virtue of his/her position in the area of law or finance, and the other from the private sector who has experience in financial management and investment. Both representatives shall be FSM citizens, serve a term of three years and may be reappointed for not more than two consecutive terms.

The costs of the FSM representatives during the course of their official duties in both committees will be born by the National Government.

The bill would authorize the President to appoint substitutes for the advice and consent representatives to each committee to serve when one of the latter is temporarily incapacitated.

Your Committee has several concerns with the bill. It notes that a substitute representative may undertake the tasks of an advice and consent representative only when the latter is temporarily incapacitated. The term "incapacitated" appears too limited and not inclusive of situations where the advice and consent representative is unable to attend committee businesses because of illness, family emergencies, and other legitimate reasons.

Moreover, your Committee notes that the bill does not include any provisions for removal of a representative from either committee. Without provisions for removal, your Committee is concerned that the bill's intent to involve Congress in the selection process may be defeated, at times.

Additionally, the bill does not expressly subject substitute and temporary representatives to Congressional advice and consent or limit the length of period they serve. These open the possibility that a temporary representative may serve for the better part of a term without Congressional advice and consent, which would also defeat the intent to involve Congress in the selection process.

Finally, your Committee notes several technical errors in the bill that require correction.

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Your Committee, therefore, recommends that the bill be amended to broaden the circumstances in which a temporary representative may represent the FSM in the businesses of the two committees, provide for removal of advice and consent representatives, limit the length of time temporary representatives may serve in the two committees, and correct the technical errors in the bill.

Accordingly, your Committee recommends the following amendments to the C.B. No. 15-62:

1. Page 1, line 6, insert the number "2" before the numbers "004" to read "2004".
2. Page 1, line 17, delete "for" and insert "of" in lieu thereof.
3. Page 2, line 8, delete "of" and insert "in" in lieu thereof.
4. Page 2, line 14, after the period (.), insert "A" and delete "Term" and insert "term" in lieu thereof.
5. Page 2, line 16, delete the letter (s) in the term "ends".
6. Page 2, line 24, before the term "temporary", insert the term "a".
7. Page 3, line 1, after the term "incapacity" insert a comma (,) and the following terms "illness, family emergencies, and other reasons which prevent the advice and consent representative from participating in JEMCO businesses."
8. Page 3, lines 1 and 2, delete the sentence "The President can also designate temporary JEMCO representatives."
9. Page 3, line 2, insert a new subsection (8) and a new subsection (9) to read as follows:
 "(8) A representative of the Federated States of Micronesia to JEMCO may be removed from office by the President for any reason.
 (9) A substitute representative of the Federated States of Micronesia to JEMCO shall not serve for more than three (3) consecutive months, unless he or she is first appointed by the President and confirmed by Congress."
10. Page 3, line 14, delete the term "will" and insert the term "shall" in lieu thereof.
11. Page 3, line 15, delete the term "can" and insert the term "may" in lieu thereof; delete the letter (s) in the term "offices"
12. Page 3, line 20, delete the term "can" and insert the term "may" in lieu thereof; after the term "incapacity" insert a comma (,) and the following terms "illness, family emergencies, and other reasons which prevent the advice and consent representative from participating in Joint Trust Fund Committee businesses."
13. Page 3, line 23, insert a new subsection (3) and a new subsection (4) to read as follows:
 "(3) A representative of the Federated States of Micronesia to the Joint Trust Fund Committee may be removed from office by the President for any reason.

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(4) A substitute representative of the Federated States of Micronesia to the Joint Trust Fund Committee shall not serve for more than three (3) consecutive months, unless he or she is first appointed by the President and confirmed by Congress."

With the foregoing amendments, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 15-62 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. 15-62, C.D.1.

Respectfully submitted,

/s/ Peter Sitan
Peter Sitan, chairman

Fredrico O. Primo, vice chairman

/s/ Tiwiter Aritos
Tiwiter Aritos, member

/s/ Isaac V. Figir
Isaac V. Figir, member

/s/ Dohsis Halbert
Dohsis Halbert, member

Moses A. Nelson, member

Paliknoa K. Welly, member