CONGRESS OF THE FEDERATED STATES OF MICRONESIA
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COMMITTEE ON
JUDICIARY AND
GOVERNMENTAL OPERATIONS

STANDING COMMITTEE REPORT NO. 21-77

RE: C.B. NO. 21-347/J&GO

SUBJECT: EXEMPTING ALL STAFF ATTORNEY IVs EXEMPT FROM THE PUBLIC SERVICE SYSTEM

JANUARY 19, 2020

The Honorable Wesley W. Simina
Speaker, Twenty-First Congress
Federated States of Micronesia
Sixth Regular Session, 2021

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.B. No. 21-347, entitled:

> "A BILL FOR AN ACT TO FURTHER AMEND SECTION 117 OF TITLE 52 CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED), AS AMENDED BY PUBLIC LAW NO. 20-152, TO EXEMPT ALL ATTORNEYS CLASSIFIED AS STAFF ATTORNEY IV FROM THE PUBLIC SERVICE SYSTEM ACT, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

Your Committee held a public hearing on January 15, 2021. Present at the hearing were attorneys from the Department of Justice and the Supreme Court, as well as others who have an interest in the bill, including the Department of Finance and Administration.

Chairman Romolow opened the hearing by welcoming all of the witnesses and expressing gratitude for their participation. Speaker expressed concern over the low salaries for attorney IV classifications.

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Speaker mentioned that in addition to C.B. No. 21-347, on Monday a new bill is being introduced to authorize the heads of each branch to be able to increase the professional premium, between 90%-150%. This was due to members having concerns about there not being a salary cap contained in C.B. No. 21-347.

C.B. No. 21-347 would remove attorney IVs from PSS and the PSS benefits would be lost.

Finance thinks it's a good idea to exempt the positions from the PSS. However, they noted that benefits would be lost and the bill increasing the professional premium would preserve those benefits.

Attorney Reffner spoke to the fact the he had begun working with the court in 1997 and he makes less now. He noted that the salary is the same, however, the housing allowance is less. He endorses the bill as proposed. He enjoys being covered by the PSS and he enjoys working for the National Government, however, he would appreciate a salary increase and appreciates that Speaker acknowledges that the attorneys deserve a salary increase.

Emy Musrasrik-Carl spoke on behalf of the court, indicating they fully support the salary increase. In fact, their budget proposal for the upcoming fiscal year included exempting their attorneys. They would support either increasing the professional premium or exempting attorneys. They have funding available and would be able to provide the increase immediately. She also noted that the justices are under the same category and would also get a boost. She indicated they strongly support the increase for the attorneys.

Speaker asked Assistant Attorney General Jun Bacalondo his preference, exempting attorneys or the increase of professional premium? Mr. Bacalondo expressed his appreciation to Congress for giving this issue their attention. He noted that the base pay

schedule is maxed and does not allow attorneys to go beyond that amount. He noted that with the exemption, there may be extremes in pay. There would be no uniformity for pay. All contract terms, including salary would be left to management and the attorney. The increase in professional premium would produce a uniform result and more predictability. He noted that there are also some other provisions under the PSS, pertaining to the commitment given to the government, etc.

Lori Williams, also from DOJ noted that the increase in professional premium would be preferred. She noted that the salary is very low, and people with less experience make the same as very experienced people. She noted that an increase would be appreciated and she is appreciative to Congress for their interest in this matter.

Budget notes that it could be an increase of about $10,000 per attorney and he noted that the government could support that. He does not feel it would be a problem for the budget.

Chairman Romolow asked if the professional premium would increase salaries for others eligible for the professional premium. Jun Bacalondo noted that the increase would apply to all who were included unless attorneys were given their own premium.

Speaker indicated that the professional premium increase proposed was across the board for all who currently receive the premium. Finance noted that the bulk of the professional premium goes to attorneys, the other staff who would be eligible for the professional premium are not included in PSS, they are already exempt. He noted it would be an approximately $200,000 impact. He noted that in his opinion the cost is worth the acknowledgement to attorneys.

Chairman expressed appreciation to everyone for attending the hearing.

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Although your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 21-347, the Committee does not support this bill in its current form. The Committee feels that after discussing the option of expanding the Professional Premium, this opinion would produce a more predictable and uniform results and the Committee will consider the bill expanding the Professional Premium when it is introduced.

Respectfully submitted,

Robson U. Romolow, chairman

Peter M. Christian, vice chairman

Tiwiter Aritos, member

Isaac V. Figir, member

Ferny S. Perman, member

Paliknoa K. Welly, member

Wesley W. Simina, member

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Wesley W. Simina, member

TWENTY-FIRST CONGRESS OF THE FEDERATED STATES OF MICRONESIA

SIXTH REGULAR SESSION, 2021 C.B. NO. 21-347

A BILL FOR AN ACT

To further amend section 117 of title 52 Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 20-152, to exempt all attorneys classified as Staff Attorney IV from the Public Service System Act, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

Section 1. Section 117 of title 52 of the Code of the Federated States of Micronesia (Annotated), as amended by Public Law No. 20-152, is hereby further amended to read as follows:

"Section 117. Application of chapter: Exemptions. The National Public Service System shall apply to all employees of and positions in the Government of the Federated States of Micronesia now existing or hereafter established and to all personnel services performed for that Government except the following, unless this chapter or provisions thereof are specifically made applicable to them:

(1) Members of the Congress of the Federated States of Micronesia;

(2) the President and Vice President of the Federated States of Micronesia;

(3) Justices and other Judges of the National Courts;

(4) the legislative counsel, deputy legislative

counsel, director of administration and budget, budget officer, administrator, the chief clerk and assistant chief clerk, the Congress Protocol and Information Officer, the Secretary to the Legislative Counsel, the Technology Administrator of the Congress, and the Secretary to the Floor Leader;

(5) the Public Auditor;

(6) the administrative officer of the National Courts;

(7) the special assistants and secretaries to the President and Vice President and the secretaries to the Speaker and Vice-Speaker of the Congress of the Federated States of Micronesia;

(8) persons appointed by the President to fill the following positions: Secretary of the Department of Foreign Affairs, Secretary of the Department of Finance and Administration, Secretary of the Department of Economic Affairs, Secretary of the Department of Transportation, Communication and Infrastructure, Secretary of the Department of Health, Education and Social Affairs, Secretary of the Department of Justice, and the Chief Public Defender, and their deputies, if any;

(9) persons appointed to any other positions by the President with the advice and consent of the Congress;

(10) the Representative in Washington and all ambassadors;

(11) persons or organizations retained by contract when the Personnel Officer has certified that the service to be performed is special or unique and nonpermanent and is essential to the public interest, and that, because of the degree of expertise or special knowledge required and of the nature of the services to be performed, it would not be practical to obtain personnel to perform such services through normal public service recruitment procedures;

(12) persons presently under contract of employment not included in subsection (11) of this section, during the life of such contract. No contract of employment shall be entered into, renewed, or amended after the effective date of this chapter, except in accordance with the provisions of this chapter;

(13) temporary positions, required in the public interest, for which the need does not exceed six months;

(14) positions requiring part-time or intermittent work which does not exceed sixty hours in any calendar month;

(15) positions filled by inmates, patients, and students of institutions of the Federated States of Micronesia;

(16) members of any board, public corporation, commission, or similar body, in their capacity as such;

(17) officers, faculty, and employees of the Board of Regents and the College of Micronesia;

(18) positions specifically exempted by any other law of the Federated States of Micronesia;

(19) all personnel of the National Weather Service, provided that the National Weather Service shall be administered by the Office of the President; and

(20) all attorneys classified as Staff Attorney IV. "

Section 2. This act shall become law upon approval by the President of the Federated States of Micronesia or upon its becoming law without such approval.

Date: 1/11/21 Introduced by: /s/ Wesley W. Simina
Wesley W. Simina