
A BILL FOR AN ACT

To further amend title 52 of the Code of the Federated States of Micronesia, as amended, by amending section 135 thereof, and for other purposes.

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

1 Section 1. Section 135 of title 52 of the Code of the
2 Federated States of Micronesia is hereby amended to read as
3 follows:

4 "Section 135. Filling of vacancies.

5 All vacancies and new positions in the public service
6 shall be filled in the following manner:

7 (1) Whenever there is a position to be filled, the
8 management official shall ~~[ask the Personnel Officer to~~
9 ~~submit a list of persons eligible. The Personnel~~
10 ~~Officer shall thereupon certify a list of five, or such~~
11 ~~lesser number as may be available, taken from eligible~~
12 ~~lists in the following order: first, reemployment~~
13 ~~lists; second, promotional lists; and third,~~
14 ~~open competitive lists. The management official shall~~
15 ~~make the appointment from the list of eligibles~~
16 ~~submitted to him unless he finds no person available and~~
17 ~~acceptable to him on the list, in which case he will ask~~
18 ~~the Personnel Officer to certify a new list, stating in~~

1 ~~writing his reason for rejecting each of the eligibles~~
2 ~~on the list previously submitted to him. If the~~
3 ~~Personnel Officer finds such reasons adequate, he shall~~
4 ~~then submit a new list of no more than five eligibles~~
5 ~~selected in like manner, from which the management~~
6 ~~official shall make an appointment. If the Personnel~~
7 ~~Officer does not find the reasons adequate, he shall~~
8 ~~resubmit the list and the appointment shall be made~~
9 ~~therefrom.] request the Personnel Officer to provide a~~
10 list of all persons on the reemployment list, the
11 promotional list, and the open-competitive list, and a
12 list of all other persons who have submitted
13 applications for the vacant position. The Personnel
14 Officer shall provide that information to the management
15 official within two days of receiving the request. After
16 reviewing the names received and qualifications of the
17 candidates, the management official shall provide to the
18 Personnel Officer a list of three candidates from which
19 the management official intends to make the appointment
20 to fill the position. Within two days of receiving this
21 list of three candidates, the Personnel Officer shall
22 notify the management official if, for any reason, any
23 person on the list is unqualified for the position. The
24 notice shall include a specific identification of any
25 job requirement that is not met by the candidate, or of

1 any other ground for disqualification. The Personnel
2 Officer's review of the list of three shall not involve
3 any ranking of eligible persons or other comparison of
4 the qualifications of candidates, but, rather, shall be
5 limited to a determination of whether any of the persons
6 on the management official's list fails to meet job
7 requirements established by law. The management
8 official may appoint any person from the list of three
9 candidates whom the Personnel Officer has not identified
10 as unqualified within two days of receiving the list of
11 three candidates.

12 (2) A management official may fill a vacant position
13 in his department, office, or other agency by promoting
14 any regular employee therein without examination, if the
15 employee meets the minimum class qualifications of the
16 position to which he is to be promoted, and if the
17 position is in the same series as the position held by
18 the employee or is clearly an upward progression in the
19 same career-ladder of positions; provided that a
20 qualified employee who is a citizen of the Federated
21 States of Micronesia shall be given preference for
22 promotion over a noncitizen employee; and provided
23 further, that when there is no material difference
24 between the qualifications of employees holding the same

1 citizenship status, the employee with the longest public
2 service will receive first consideration for promotion."
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6 Section 2. This act shall become law upon approval by the
7 President of the Federated States of Micronesia or upon its
8 becoming law without such approval.

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10 Date: 8/30/04

Introduced by: /s/ Dohsis Halbert
Dohsis Halbert

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