

STANDING COMMITTEE REPORT NO. 14-77

RE: C.B. NO. 14-80/T&C

SUBJECT: TERM OF TELECOM BOARD MEMBERS

JANUARY 24, 2006

The Honorable Peter M. Christian
Speaker, Fourteenth Congress
Federated States of Micronesia
Third Regular Session, 2006

Dear Mr. Speaker:

Your Committee on Transportation and Communication to which was referred C.B. No. 14-80 entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 21 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY AMENDING SECTION 212 WITH RESPECT TO THE TERM OF TELECOM BOARD MEMBERS AND AMENDING SECTION 213 WITH RESPECT TO THE FILLING OF VACANCIES ON THE TELECOM BOARD, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

C.B. No. 14-80 was introduced during the Second Regular Session of the Fourteenth Congress. First, the bill is intended to clear the current ambiguity in section 212 of Title 21 of the FSM Code, whether FSM Telecommunication Corporation Board of Directors (hereinafter called the "Telecom Board") members should retain their authority after their term expires if no new member has been appointed. The current amendment to section 212 proposes language that will make it clear that members may stay in their positions until a successor is appointed, however, the "holdover" is limited to one year. The reason behind term limit is to ensure that the performance of Boards and Board members is regularly evaluated, that members without the confidence of the appointing powers are removed and members with the confidence of the appointing powers are given a fresh mandate. At the same time, when a Board members term expires without a successor appointed the work of the Telecom Board will be delayed indefinitely.

Second, the bill is intended to cure the potential Constitutional issue with section 213 of Title 21 of the FSM Code, which is the appointing powers of the Speaker of the Congress or the Speaker of the State legislature. Recently when reviewing provisions of Chapter 2 of Title 21 of the FSM Code establishing the Telecom Board, particularly section 213 of Title 21, such provision has a potential Constitutional issue. For instance, Section 2 (d) of Article X of the FSM

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Constitution expressly delegates to the President the power to appoint, amongst others, principle officers of the Executive branch, and such other officers as may be provided for by statute, subject to the advice and consent of Congress. The FSM Constitution does not provide for Congress to have a unilateral appointment power. Therefore, this provision as it stands may be unconstitutional.

Your Committee has conducted public hearings on the said bill in the States, and has received positive support that the proposed amendments are needed to balance the needs of the Board with the need for appointing powers to act in a timely fashion.

Thus, your Committee on Transportation and Communications is in accord with the intent and purpose of C.B. No. 14-80 and recommends its passage on First Reading, and that it be placed on the Calendar for Second and Final Reading.

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Respectfully submitted,

/s/ Moses A. Nelson
Moses A. Nelson, chairman

/s/ Dion G. Neth
Dion G. Neth, vice chairman

Resio S. Moses, member

/s/ Ramon Peyal
Ramon Peyal, member

Claude H. Phillip, member

Simiram Sipenuk, member

/s/ Peter Sitan
Peter Sitan, member