

STANDING COMMITTEE REPORT NO. 15-83

RE: C.B. NO. 15-75/JGO

SUBJECT: NATURALIZATION OF FSM NATIONALS

FEBRUARY 18, 2008

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

Dear Mr. Speaker:

Your committee on Judiciary and Governmental Operations, to which was referred C.B. No. 15-75, entitled:

"A BILL FOR AN ACT TO AMEND SECTION 204 OF TITLE 7 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, IN ORDER TO ALLOW FOR CITIZENSHIP THROUGH NATURALIZATION TO FSM NATIONALS AND CHILDREN OF FSM CITIZENS, AND, WITH THE RECOMMENDATION OF CONGRESS THROUGH BILL, CITIZENSHIP THROUGH NATURALIZATION FOR SPOUSES OF FSM CITIZENS, 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. 15-75 proposes to amend the procedures for naturalization for the children of FSM citizens. Currently, children and spouses of FSM citizens are eligible to apply for citizenship if they meet the following criteria:

- have resided in the FSM for at least five (5) years immediately preceding the petition for naturalization;
- have renounced any and all previous citizenships; and
- have competence in at least one of the indigenous languages of the FSM.

If the above criteria are met, the person may be naturalized as a citizen on Congress' recommendation by bill.

The subject bill proposes to retain the above procedures for the naturalization of spouses of citizens but to change them for the children of FSM citizens. The FSM Constitution, at Article III, gives an FSM citizen who is recognized as a citizen of another nation the opportunity, within three years of her or his eighteenth birthday, to register her or his intent to remain a citizen of the FSM and to renounce any other citizenship she or he may hold. A person who declines to retain her or his FSM citizenship becomes a national of the FSM.

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C.B. No. 15-75 proposes to remove the requirement that a non-citizen child of an FSM citizen, who after the age of 21 became an FSM national, be recommended by Congress by bill for citizenship. In this way, a non-citizen child of an FSM citizen may be naturalized as a citizen simply by applying for FSM citizenship and meeting the criteria listed above.

An additional criteria has been added, for both spouses and children of FSM nationals, that the person not have been convicted of a felony, as defined by the laws of the place where the conviction place.

Accordingly, the procedures for spouses and children are the same, except that the element of political discretion is removed for the children of FSM citizens, or FSM nationals. This can be understood as having the effect of allowing the children of FSM citizens who have become FSM nationals to choose FSM citizenship after they have passed the age of 21.

Public Hearings

Your committee held hearings in each of our four states to gather views and suggestions regarding the subject bill. A summary of comments at these hearings follows.

Kosrae

There was a suggestion that the term "child" be defined so that it is clear that this also applies to individuals of adult age.

There was a suggestion that FSM nationals and spouses of FSM citizens be treated equally and not distinguished for purposes of naturalization.

Yap

Both the Yap State legislature and executive noted that they will deliver a Yap State position and that the hearings allow for personal opinions only.

There were a number of comments on the impracticality and unfairness of the constitutional prohibition of dual citizenship for FSM nationals in that, constitutionally, only FSM citizens may own land in the FSM. The subject bill was seen as a step toward remedying this perceived inequity while a Constitutional amendment regarding the prohibition against dual citizenship is pursued.

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Another issue raised was the protection of US entry with an FSM passport, although it was noted that the responsibility of the FSM is not to protect the borders of other nations, but only our own borders.

The Governor of the State of Yap submitted written comments on the bill, dated 1 February 2008. There was a comment that the new proposed criteria of making individuals who have been convicted of a felony ineligible for citizenship is impractical, as the fact of a felony conviction may be misleading as to the gravity of the actual crime.

Chuuk

There was support for this bill, and comments that it offers fair treatment to FSM nationals. There was a further suggestion that the requirement that nationals meet the listed criteria, residence and language competence, in order to become eligible for naturalization as citizens be eliminated altogether. Of course, as the FSM Constitution prohibits dual citizenship, any applicant for FSM citizenship would be required to renounce other citizenship. In Chuuk, FSM nationals were described as "our children" and seen as being entitled to ongoing eligibility for citizenship.

Support was expressed for the bill, although some commented that dual citizenship would be preferable and asked Congress to include the question of dual citizenship in the next election.

Pohnpei

There was overall support for this bill from the Office of the Governor.

The Pohnpei Legislature asked why applications for citizenship have never been approved by Congress. The answer included caution regarding the potential for abuse of FSM citizenship.

It was also noted that, although there is a practice whereby states recommend certain individuals for citizenship, there is no role for the states under the Constitution. Section 2 of Article IX expressly delegates the power "to regulate immigration, emigration, naturalization and citizenship" to the national government.

There was a suggestion that the national government distinguish between individuals who apply for citizenship on the basis of family interests and those who apply on the basis of business interests.

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Recommendations of your Committee

Your Committee has given careful consideration to the proposed amendments in CB 15-75 and considers that the proposed amendment represents an improvement upon the existing law in that it offers FSM nationals the opportunity to regain their FSM citizenship after the age of 21. This is significant. Your committee recognizes that an individual at the age of 21 may not be prepared to undertake major decisions regarding her or his citizenship. As a result, many children of FSM citizens may miss the opportunity to choose FSM citizenship. The proposed amendments will offer another chance for citizenship to FSM nationals at any time after the age of 21.

Your committee has considered the suggestion from the State of Chuuk that the criteria of residence and language proficiency be eliminated altogether for the children of FSM citizens. This is a compelling suggestion. However, your committee takes the view that, since the subject bill represents significant changes to the existing law, it may be more prudent, if the bill passes into law, to review its impact over time. Your committee may be prepared to consider another bill proposing the elimination of the criteria of residency and language proficiency at a later time.

Based on these comments, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 15-75 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. 15-75.

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Respectfully submitted,

/s/ Peter Sitan
Peter Sitan, chairman

/s/ Fredrico O. Primo
Fredrico O. Primo, vice chairman

Tiwiter Aritos, member

Isaac V. Figir, member

Dohsis Halbert, member

/s/ Moses A. Nelson
Moses A. Nelson, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member