

STANDING COMMITTEE REPORT NO. 15-93

RE: C.B. NO. 15-04/J&GO

SUBJECT: CHANGE MANDATORY RETIREMENT AGE FROM 60 TO 65

FEBRUARY 21, 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. 15-04, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 52 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY FURTHER AMENDING SECTION 115 THEREOF TO CHANGE THE MANDATORY RETIREMENT AGE FOR ALL EMPLOYEES SUBJECT TO THE NATIONAL PUBLIC SERVICE SYSTEM FROM SIXTY TO SIXTY-FIVE, 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. 15-04 proposes to change the mandatory retirement age for employees subject to the National Public Service System from 60 to 65. Your committee notes that the current mandatory retirement age of 60 was implemented as a result of Public Law 14-56. Previously, there had been no mandatory retirement age under the FSM Public Service.

Purpose of original mandatory retirement age at 60

The purposes for establishing a mandatory retirement age at 60 are outlined in detail in section 1 of Public Law 14-56. These can be summarized as making space in the public service for workers with "energy, skills and intellectual vigor... in an increasingly complicated and technically-demanding world". Public Law No. 14-56 also seeks to create opportunities for future leaders in the public service.

Your committee understands that the reasons behind the introduction of the subject bill include concerns regarding the out migration of skilled Micronesians and the need to retain older workers who may have valuable skills and experience that younger workers lack.

Effect on social security

Your committee notes that the current age at which a person becomes eligible for retirement benefits under the FSM Social Security legislation is 60. The passage of the subject bill into law would not change this age of eligibility. An individual would still be entitled

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to retire at age 60 and receive full social security benefits if that person chooses. However, if an individual chose to continue working past the age of 60, perhaps in order to accumulate additional quarters to reach fully insured status under the social security framework, the individual would also have that option.

Public Hearings

Your committee held hearings in each of our four states and with employees of the national government to gather input regarding this bill. Your committee notes that the proposed amendment would affect national government employees only and not state government employees. A summary of comments at these hearings follows.

Kosrae

It was suggested that the social security legislation can be amended to match. It was noted that Kosrae has a similar bill, proposing to change its mandatory retirement age from 55 to 60. A costs analysis of the bill was requested. Another representative of Kosrae was not in favor of the bill, saying it is not good for young people and only affects a small group of older people who may be in the higher salary range. Another suggestion was for an earlier mandatory retirement age with a corresponding earlier eligibility for social security.

Yap

Both the Yap State legislature and executive noted that they will deliver a Yap State position and that the hearing allows for individual opinions only.

One member asked if this bill is an indication that our life expectancy in the FSM is increasing, and reminded members that the World Health Organization recently listed the FSM as the second most obese country in the world, after Nauru. A concern was expressed as to whether the FSM will have enough qualified workers to replace retiring people, referring to the ongoing "brain drain" that is affecting Yap. However, the importance of giving young people a chance was also noted.

After the hearing, the Office of the Governor of Yap State submitted written comments, dated 1 February 2008. The comments note that the proposed extension of the mandatory retirement age from 60 to 65 seems to undermine the policy reasons for the establishment of a retirement age in PL 14-56. There is a suggestion that, if deemed necessary, employees with unique skills may remain beyond the age of 60 on a

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contractual basis. For these reasons, the Office of the Governor does not support the bill.

Chuuk

There was a question if any consideration is given to a worker's length of service. The constitutionality of mandatory retirement in general was questioned. There was a request for a feasibility study on the life spans of FSM citizens and also concern as to how this might influence or affect social security benefits in the future.

It was noted that, on page two of the bill, "section 2" should read "section 1". Your committee agrees and takes note of this technical amendment.

Pohnpei

There was a comment that the life expectancy in the FSM is currently estimated to be 56 for men and 58 for women. With this in mind, 60 was said to be a commendable retirement age. The Pohnpei State Legislature suggested that this matter be revisited in a few years.

National Government

Your committee met with members of the national government in Palikir in the afternoon of February 14, 2008. Speaker Figir and Chairman Sitan were present, as well as Members Halbert and Primo. Representatives of the Supreme Court, the National Police, the Office of Personnel and the Department of Education were in attendance. Mr. Willyander, an individual who had been forced to retire when mandatory retirement at age 60 had been implemented, also participated in the hearing.

Mr. Edigar Isaac of the Office of Personnel stated that the current life expectancy in the FSM is 66 for men and 67 for women. (Your committee notes that this estimate is different from the estimate given by Pohnpei State, 56 and 58.) Mr. Isaac said that, for most Micronesians, the age of 65 is too old to work. He suggested that the best thing would be for the national government to abolish the recently-introduced mandatory retirement age altogether and simply allow national government workers to choose for themselves when to retire.

Senator Halbert noted that Public Law No. 14-56, which introduced a mandatory retirement age to the national government, had been fast-tracked: the bill was withdrawn from committee and voted on without hearings. The suddenness of the law caught some people unprepared as

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national government workers who had passed their sixtieth birthdays were required to retire immediately.

Senator Primo asked Mr. Isaac what the effect of Public Law No. 14-56 had been on the workforce. Mr. Isaac responded that the law had come into force so suddenly that there had been insufficient time to prepare people to take over from those who were forced to retire. He commented that, while vacancies were created, the people who were forced to retire had not been unproductive workers.

Speaker Figir suggested that training is essential to replace people who leave the workforce, whether their departures are a result of retirement or the "brain drain" that affects the FSM workforce. Mr. Isaac of Personnel agreed with Speaker that training is important, but also said that many workers are overloaded and do not have time for training. He acknowledged that funds for training are included in the national budget and said most training is for lower-level staff.

The Chief of the National Police said that, due to the nature of the work, it is important that police officers not be too old. He suggested that 55 be set as a mandatory retirement age for police officers and that the general retirement age remain at 60.

The representative of the Court said three factors are at play in the consideration of a mandatory retirement age:

1. the effectiveness of employees;
2. the nature of the FSM workforce; specifically, our constantly exploding population; and
3. the question of the uniformity of state and national governments.

He said that, in light of these three considerations, the current retirement age of 60 is preferable.

The representative of the Department of Education said he was shocked by the suggestion that the mandatory retirement age be moved to 65. He said the implementation of the retirement age of 60 affected his department tremendously and they lost many capable people.

Recommendations of your committee

Based on these comments received from the states and the national government, your Committee on Judiciary and Governmental Operations is in accord with the intent and purpose of C.B. No. 15-04 and recommends its passage on First Reading, and that it be placed on the calendar

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for Second and Final reading in the form attached hereto as C.B. No. 15-04.

Respectfully submitted,

/s/ Peter Sitan
Peter Sitan, chairman

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

/s/ Tiwiter Aritos
Tiwiter Aritos, member

Isaac V. Figir, member

/s/ Dohsis Halbert
Dohsis Halbert, member

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

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