

STANDING COMMITTEE REPORT NO. 16-20

RE: C.B. NO. 16-34/H&SA

SUBJECT: CHANGES TO TITLE 53, SOCIAL SECURITY LAW

SEPTEMBER 21, 2009

The Honorable Isaac V. Figir
Speaker, Sixteenth Congress
Federated States of Micronesia
Second Regular Session, 2009

Dear Mr. Speaker:

Your Committee on Health and Social Affairs (H&SA), to which was referred C.B. No. 16-34, entitled:

"A BILL FOR AN ACT TO FURTHER AMEND TITLE 53 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAWS NOS. 5-120, 7-118, 9-056, 12-76, 14-34, 14-37, 14-86 AND 15-73, BY AMENDING THE FOLLOWING PROVISIONS OF TITLE 53, SECTIONS 603, 804 AND 806, TO DELAY THE IMPLEMENTATION OF THE SOCIAL OLD AGE BENEFITS RECEIVED BY AN INDIVIDUAL BETWEEN THE AGES OF 60 AND 64 FOR THREE YEARS, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

The subject bill, C.B. 16-34, proposes several amendments to Title 53 of the FSM Code, which is the law establishes the FSM Social Security Administration Program (FSMSSA).

Initial Attempt

C.B. No. 16-34 was introduced during the first special session of the 16th FSM Congress. The purpose of the said bill is to delay the implementation of 50% cut on retirement benefit payout to individual aged 60 to 64 for three years. In section 804(1) (c) of title 53 of the FSM Code, on January 1, 2010 (four months from now), retirement benefits payout to individuals aged 60 to 64 is reduced by 50% until the retiree reaches age 65, at which time the benefit will automatically be adjusted to what it would have been prior to the 50% reduction.

When Congress passed the latest amendments to the Social Security Law (Public Law No. 15-73), the Office of the Speaker was inundated with letters, resolutions and petitions requesting Congress to do something about Public Law No. 15-73. As a response to ease the mood of the states on the passage of Public Law No. 15-73, the FSM Social Security Board in its communication to Speaker Figir dated July 09, 2009, had requested FSM Congress to amend some of the provisions in Public Law

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No. 15-73. Such provisions include sections 603, 804 and 806. The letter is attached in this report.

Furthermore, during the Micronesian Legislative Conference, the leadership also adopted a resolution (MLC Resolution No. 09-03) requesting FSM Congress to delay the 50% retirement benefit payout cut and the tax increase to another year. Said resolution is attached in this report.

Your Committee is very disappointed with the FSM Social Security Board for not supporting the effort of the Administration in implementing Public Law No. 15-73. Furthermore, your Committee appreciates very much the States of Chuuk, Yap and Pohnpei in supporting the proposed amendments to the Social Security law. The Committee also admired the initiative of the sponsor of the said bill.

As a compromise, the Committee wishes to amend C.B. No. 16-34. Hence, it is important to explain the purpose of these amendments in C.B. No. 16-34.

1. **Amendment to Section 603.** The particular amendment in this section is on subsection 7 of section 603. This is on the application of the earning test to old age benefits received by an individual between the ages of 60 and 64. In Public Law No. 15-73, the effective date of this subsection is on and after January 01, 2010. C.B. No. 16-34 proposed to delay the implementation of this provision to January 01, 2013. However, the Committee recommends in line with the Micronesian Legislative Conference Resolution No. 9-03, to change the year from 2013 to 2011.
2. **Amendment to Section 804(1)(c).** In Public Law No. 15-73, individuals who turn 60 after January 1, 2010, such individual from ages 60 to 64 will receive fifty percent (50%) of the retirement benefit until the retiree reaches age 65, at which time the benefit will automatically be adjusted to what it would have been prior to the 50% reduction. FSMSSA estimates this provision would decrease its unfunded accrued liability by \$28.5 million. The proposed amendment to this particular provision in C.B. No. 16-34 is to delay the implementation of this provision to another three year. Your committee recommends that the effective date of this provision would be January 01, 2011, a one-year delay. The decrease of the Program's unfunded accrued liability of \$28.5 million would also be adjusted because of this

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one-year delay.

3. **Amendments to Section 806.** In Public Law No. 15-73 a fully insured worker who dies after January 1, 2010 will receive benefit as if he or she retired at age 65. To be consistent with the date, your Committee supports this particular amendment.

Your Committee is of the view that the proposed amendments to the Social Security Law (Public Law No. 15-73) are not quick fix solutions for the Social Security Program. According to the Administrator of the Social Security Program, by delaying the implementation of the retirement benefit and tax increase; the Social Security Program will continue to withdraw from its investment. For the year 2009, the Program had already withdrawn \$14 million from its investment to payoff its benefit payouts. The continuation of this practice will deplete the Program's investment.

For illustration purposes, in 2010 there are 369 prospective retirees. For the program to pay annual benefit for the prospective 369 retirees, not counting the current annual benefit payout, the Program needs \$568,448 for annual benefit payout. With the implementation of 50% cut on retirement benefit, the Program will pay annual benefit at 50% an amount of \$284,224 for the 369 prospective retirees. A document on "Effect of Retirement Age Provision" and "Effect of Tax Rate Increase" from the Program is attached herein for ease of comparison.

Your Committee also inquired from the Administrator of the Program on the delinquent tax, and was informed that about \$4million has not been collected and majority of this amount comes from the private sectors and local governments. Your Committee strongly advises the Administrator to continue its effort in collecting delinquent tax before September 30, 2010.

The committee also commented that by the time the infrastructure projects are implemented in each state, the number of employees will be realized in the job market and this will create more revenue for the program.

The Committee also discussed the mandatory retirement laws, and the effect such laws have on the Social Security Program. The Committee wishes to coordinate this subject matter with the Committee on Judiciary and Governmental Operation because there is already a bill assigned to this Committee to amend the National Government mandatory

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retirement law. The Committee is also requesting the respective states to amend their mandatory retirement laws. This is an effort that should be coordinated with States.

Accordingly, your Committee proposed the following amendments to C.B. No. 16-34 as follows:

1. Title, line four after "and", delete "and 806", and insert ", 806, 901 and 902".
2. Title, line five after "Social", insert "Security retirement", and delete "old age".
3. Title, line six, delete "three years", and insert "one year and to delay the implementation of tax increase for one year".
4. Page 4, line 17, delete "2013", and insert "2011" in lieu thereof.
5. Page 13, line 20, delete "2013", and insert "2011" in lieu thereof.
6. Page 14, line 4, delete "2013", and insert "2011" in lieu thereof.
7. Page 14, line 14, delete "2013", and insert "2011" in lieu thereof.
8. Page 16, line 2, delete "2013", and insert "2012" in lieu thereof.
9. Page 16, line 9, delete "2013", and insert "2011", in lieu thereof.
10. Page 16, line 17, delete "2013", and insert "2011" in lieu thereof.
11. Page 19, between lines 14 and 15, insert the following:
"Section 4. Section 901 of title 53 of the Code of the Federated States of Micronesia, as amended by Public Laws Nos. 14-37 and 15-73, is hereby further amended to read as follows:

"Section 901. Employee contributions.

(1) There is hereby imposed on every employee a tax equal to the following percentages of wages received by him with respect to employment subject to this subtitle:

(a) with respect to wages paid from the effective date of this act through June 30, 1985, the rate shall be two percent;

(b) with respect to wages paid from July 1, 1985, through June 30, 1990, the rate shall be three percent;

(c) with respect to wages paid from July 1, 1990, through June 30, 1995, the rate shall be four percent;

(d) with respect to wages paid from July 1, 1995,

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through June 30, 2000, the rate shall be five percent;

(e) with respect to wages paid from July 1, 2000, to October 01, [~~2009~~] 2010, the rate shall be six percent.

(f) with respect to wages paid on and after October 01, 2009, to January 1, 2013, the rate shall be seven percent.

(g) with respect to wages paid on and after January 1, 2013, the rate shall be seven point five (7.5) percent."

Section 5. Section 902 of title 53 of the Code of the Federated States of Micronesia, as amended by Public Law No. 15-73, is hereby further amended to read as follows:

"Section 902. Employer contributions.

There is hereby imposed on every employer an excise tax, with respect to having an individual in his employment, equal to the following percentages of wages, paid by him with respect to employment subject to this subtitle:

(1) with respect to wages paid from the effective date of this act through June 30, 1985, the rate shall be two percent;

(2) with respect to wages paid from July 1, 1985, through June 30, 1990, the rate shall be three percent;

(3) with respect to wages paid from July 1, 1990, through June 30, 1995, the rate shall be four percent;

(4) with respect to wages paid from July 1, 1995, through June 30, 2000, the rate shall be five percent;

(5) with respect to wages paid after June 30, 2000, the rate shall be six percent.

(6) with respect to wages paid on and after October 01, [~~2009~~] 2010, the rate shall be seven percent.

(7) with respect to wages paid on and after January 1, 2013, the rate shall be seven point five (7.5) percent."

12. Page 19, line 15, delete "4", and insert "6" in lieu thereof.

Your Committee on Health and Social Affairs is in accord with the intent and purpose of C.B. No. 16-34 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. 16-34, C.D.1.

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Respectfully submitted,

/s/
Setiro Paul, chairman

Isaac V. Figir, member

/s/
Joe N. Suka, member

/s/s
Fredrico O. Primo, member

/s/
Tony H. Otto, member

Dion G. Neth, member

Claude H. Phillip, member