

STANDING COMMITTEE REPORT NO. 18-127

RE: C.B. NO. 18-68 (P.C. NO. 18-212)/J&GO

SUBJECT: VETO OF CONGRESSIONAL ACT NO. 18-38

MARCH 27, 2014

The Honorable Dohsis Halbert
Speaker, Eighteenth Congress
Federated States of Micronesia
Third Special Session, 2014

Dear Mr. Speaker:

Your Committee on Judiciary & Governmental Operations, to which was referred Presidential Communication No. 18-212 and Congressional Bill No. 18-68, regarding the veto of Congressional Act No. 18-38, begs leave to report as follows:

Congressional Act No. 18-38 was vetoed by the President and did not become Public Law. The Congressional Act was then referred back to your Committee on Judiciary & Governmental Operations.

Your Committee on Judiciary & Governmental Operations held a meeting to discuss the grounds for the veto on March 24, 2014. P.C. No. 18-212 enumerates several grounds for the veto, which will be addressed in turn.

Your Committee observes that the underlying motivation for C.A. 18-38 was the fundamental principle of fairness. There are several employees currently working in an "acting" capacity who are receiving their normal base pay, in spite of taking on additional work. While the veto message of P.C. No. 18-212 points out that it is often difficult to fill secretarial roles with qualified appointees within a 90 day time frame, this is precisely why Congress has chosen to act. The inequity of an employee taking on long-term additional responsibilities in an "acting" capacity without additional compensation is a problem that is bound to recur and persist.

Your Committee notes that even if employees designated in their

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"acting" capacity might "normally" perform additional administrative and nondiscretionary functions, it is still additional work for no additional pay. Furthermore, Congress has decided that 90 days is a sufficient timeframe from within which an "acting" employee will probably have had to perform extraordinary work.

Your Committee notes that the most well-founded objection of P.C. No. 18-212 is based upon a potential ambiguity in the statute. It was the intent of the legislation that the salary increase exists only for as long as the "acting" designee is "acting," and no longer. Once the secretarial position is filled and the "acting" designee is no longer "acting," they will return to their normal salary. This is part of the fundamental fairness underlying the bill: one should receive the compensation for the job they are doing, not the job they are no longer doing or the job they were hired to do before being designated. Indeed, as was discussed on the floor during debate on the bill, your Committee notes that Congressional Act No. 18-38 is budget neutral. The money for the secretarial salary rate would already be appropriated for the relevant division. Fairness dictates the secretarial salary should be paid to the one acting in that capacity during the months they are so acting. When the position is filled by a Congressionally approved nominee that confirmed secretary would begin receiving the salary, and the designee (no longer "acting") would simply return to the salary of their actual position.

Yet, your Committee notes that while the statute does not state the salary increase is permanent, which is not its intent, the statute does not explicitly state that the increase is temporary. Your Committee finds that such ambiguity can be fixed with a subsequent measure to clarify the language and leave no doubt that the additional compensation exists only so long as one is "acting." Yet, the fundamental principle of fairness demands the statute go forward. Your Committee has revisited the items subjected to veto, has found the vetoed items to be consistent with sound public policy, and therefore disagrees with the decision to veto.

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CONCLUSION

Your Committee has reviewed the vetoed legislation and veto message. Your Committee recommends overriding the veto of Congressional Act No. 18-38.

Your Committee on Judiciary & Governmental Operations is in accord with the intent and purpose of C.B. No. 18-68, and recommends it be placed on the calendar for veto override.

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Respectfully submitted,

/s/ Wesley W. Simina
Wesley W. Simina, chairman

/s/ Berney Martin
Berney Martin, vice chairman

Dohsis Halbert, member

/s/ Tiwiwter Aritos
Tiwiter Aritos, member

/s/ Yosiwo P. George
Yosiwo P. George, member

Isaac V. Figir, member

Bonsiano F. Nethon, member