

STANDING COMMITTEE REPORT NO. 18-131

RE: C.B. NO. 18-145/T&C

SUBJECT: LIBERALIZATION OF TELECOMMUNICATION SERVICES

MARCH 28 2014

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

Dear Speaker:

You Committee on Transportation and Communications, to which was referred C.B. No. 18-145 entitled:

"A BILL FOR AN ACT TO FURTHER AMEND SECTIONS 203, 205, 208 AND 228 OF TITLE 21 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED BY PUBLIC LAWS NOS. 11-26 AND 17-03, AND CREATING A NEW CHAPTER 3, TO CREATE A BODY CALLED THE FEDERATED STATES OF MICRONESIA TELECOMMUNICATIONS AUTHORITY (THE "AUTHORITY"), SETTING FOR THE POWERS, DUTIES AND PREROGATIVES OF THE AUTHORITY IN ESTABLISHING THE STANDARDS AND GUIDELINES IN ENHANCING ACCESS TO AND AFFORDABILITY OF TELECOMMUNICATION SERVICES IN THE FEDERATED STATES OF MICRONESIA, USING THE PRINCIPLES OF LIBERALIZATION, FREE AND OPEN COMPETITION, AND CUSTOMER-ORIENTED APPROACH, AND FOR OTHER PURPOSE.",

Begs leave to report as follows:

The intent and purpose of this bill is expressed in its title.

This bill C.B No. 18-145 is an amended a version of a previously introduced bill from the Executive on the same subject matter, C.B No. 18-77.

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The bill deals with the liberalization of telecommunications services in the FSM. It does so by eliminating the legal monopoly that FSM Telecommunications Corporation ("Telecom") holds to provide telecommunications services in the FSM. It also establishes an independent regulatory authority, and sets up an "Open-Access Entity" for the purpose of owning assets related to a future fiber optic project connecting Palau, Yap and Guam.

C.B. No. 18-77 was introduced last September, and your committee did extensive work on it including fact-finding trips to Palau and Washington and public hearings in the states including a major one at the Yap Legislature in February 2014. Extensive consultations were held with the stakeholders. Your committee is encouraged that this revised bill was submitted. Your committee understands that this bill was the result of extensive discussions between TC&I and Telecom. These discussions were mandated by your committee in light of the opposition of Telecom to the previous C.B. NO. 18-77. It appears that a common ground has been found.

Unlike the previous C.B. No. 18-77 this bill does not attempt to restructure Telecom by altering its shares structure or its Board of Directors. There are also a few changes including the fact that the Open-Access Entity will now be owned by the National Government as represented by the Secretary of Finance and Administration, whereas in C.B. No. 18-77 the owners were the Secretaries of TC&I and Finance.

Part of the impetus for this bill was the possibility of a substantial grant from the World Bank to connect Yap to a proposed Palau-Guam fiber optic cable. One condition of the grant (called the "Regional Allocation") of \$27 million was the participation of more than one country, in this case Palau and the FSM, in the project. In addition to the \$27 million, there is also a "Country Allocation" of \$13 million just for the FSM, for a total of about \$40 million.

On March 26, 2014, your committee held a hearing with TC&I, telecom and the Department of Finance and Administration. Present as witnesses were the Secretary of Finance and Administration Kensley Ikosia, the Secretary of TC&I Francis Itimai, Telecom CEO John Sohl and their respective staff. Your committee was

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informed at the hearing that although there were a few questions remaining, both TC&I and Telecom were comfortable with, and support the bill.

Some of the remaining questions pertain to the progress of Palau on this project. It is the feeling of your committee, however, that consideration of this bill is first and foremost a domestic matter. The Congress should pass a bill based upon the national interest of the FSM. It should be done if and because it is in the best interest of the FSM to do so, not depending on what a sister country may or may not be doing.

In this case your committee's interest is to see better and more affordable service across the Nation. It is important to secure good communications infrastructure not just to Yap but also to Kosrae and Chuuk (Pohnpei already has fiber optic access). Based upon extensive consultations with the interested parties and Telecom in particular, there appears to be a consensus that the sector should be liberalized, that is the legal monopoly of Telecom should be abolished by law.

It also appears that this grant from the World Bank will be a good opportunity for the entire nation to acquire a much improved telecommunications infrastructure. This means the possibility of connection for Kosrae and Chuuk, and not just a fiber optic cable for Yap. Your committee also understands that there are no preconditions as to the technology and supplier involved, beside what is needed to qualify for the Regional Allocation.

With respect to the regulatory authority, your committee must at this time defer to the experts who drafted the legislation since this is a highly technical area. Your committee recommends however that Congress remain vigilant and exercise its oversight authority in full. Your committee for one will not shy away from offering amendments or even repeal this law should in practice the regulatory scheme turn out not be satisfactory, that is to bring about better and more cost-effective telecommunications services to the country.

Your committee is therefore in favor of proceeding with this legislation. Your committee understands that this is just the

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first step in a long and involved process involving extensive consultation among several countries and donors. We hope that as we go along and access more technical advice through technical assistance grants, fact-finding trips or otherwise we will be able to refine if needed the legislation.

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Your Committee on Transportation and Communications is in accord with the intent and purpose of C.B. No. 18-145 and recommends its passage on First Reading and that it be placed on the Calendar for Second and Final Reading.

Respectfully Submitted,

/s/ Peter M. Chrisitan
Peter M. Christian, chairman

/s/ Victor Gouland
Victor Gouland, vice chairman

/s/ Isaac V. Figir
Isaac V. Figir, member

/s/ Dohsisi Halbert
Dohsis Halbert, member

Florencio S. Harper, member

/s/ Wesley W. Simina
Wesley W. Simina, member

Paliknoa K. Welly, member