

STANDING COMMITTEE REPORT NO. 19-35

RE: C.B. NO. 19-39 (P.C. 19-67)/J&GO

SUBJECT: TO DISSOLVE THE OFFICE OF SBOC AND TO
ASSIGN ITS FUNCTIONS TO EXISTING
EXECUTIVE DEPARTMENTS AND AGENCIES

AUGUST 17, 2015

The Honorable Wesley W. Simina
Speaker, Nineteenth Congress
Federated States of Micronesia
First Special Session, 2015

Dear Mr. Speaker:

Your Committee on Judiciary and Governmental Operations, to which was referred C.B. No. 19-39, entitled:

"A BILL FOR AN ACT TO AMEND SECTION 204 OF TITLE 2 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA (ANNOTATED) FOR THE PURPOSE OF IMPROVING THE EFFICIENCY FOR THE EXECUTIVE BRANCH BY DISSOLVING THE OFFICE OF SBOC, ASSIGNING ITS FUNCTIONS TO THE EXECUTIVE DEPARTMENTS OR AGENCIES, AND FOR OTHER PURPOSES.",

begs leave to report as follows:

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

The bill was transmitted to Congress as Presidential Communication 19-67, which was received on July 7, 2015. Attached to P.C. 19-67 were copies of an Executive Order dated June 17, 2015, and a follow-up Directive dated July 2, 2015. The Executive Order purported to dissolve the Office of SBOC and reassign its duties to existing Executive departments. However, the Order itself stated, "In the interest of orderly transition and systematic implementation of the

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changes required in this Executive Order, a bill to further amend Title 2 of the FSM Code shall be transmitted to the Nineteenth Congress of the Federated States of Micronesia as soon as possible."

The follow-up Directive sought "to clarify the implementation of the reorganization of the functions of the Office of SBOC" by specifying the day-to-day operational changes necessitated by the dissolution of the Office of SBOC. The Directive stated, in pertinent part, "The operations budget for each Division under SBOC shall be deemed transferred to the respective Departments and Offices identified in the Executive Order, and clarified in this Directive."

Your Committee held a public hearing on C.B. No. 19-39 on August 15, 2015. Representatives from the Office of the President were present, as was the Secretary of Finance and Administration, a representative from the Department of Justice, and a former employee of SBOC.

The Chairman of your Committee opened the hearing by welcoming the witnesses and allowing them to make opening statements if they wished.

During both the opening statements and the question-and-answer portion of the hearing, three broad areas were discussed: 1) the rationale for dissolving SBOC; 2) the legality of the process followed to date; and 3) the results of the realignment at present.

Rationale for dissolving SBOC

The representative of the Office of the President advised that the rationale for C.B. 19-39 is to reassign the functions of SBOC in a way that makes more operational sense. He advised that this process is already underway. The Secretary of Finance and Administration stated that she supports the bill primarily because budget and finance belong together and go hand-in-hand. Further, she advised that this arrangement would reduce duplication of effort and reduce delays caused by a silo-ing of information in two different departments. The representative of the Department of Justice advised

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that they are in support of the bill as a way to fully implement and effectuate the President's Executive Order and Directive.

With respect to the rationale for the dissolution, your Committee inquired as to the history of the creation of SBOC. Your Committee also inquired whether there were other problems or issues that precipitated the dissolution rather than simply a desire for increased efficiency. Your Committee further inquired whether there were any anticipated cost savings from the dissolution and realignment.

The witnesses reiterated that a desire to improve operational coherence, to reduce duplication of effort, and to consolidate similar functions under the same line of authority combined to form the rationale for this bill. No cost savings were anticipated because the employees and operating budgets for the various functions within SBOC would simply follow those functions to the receiving Executive departments.

Your Committee then raised the issue of whether consolidating similar functions might eliminate the "checks and balances" inherent in placing similar functions, like budgeting and finance, in different Executive departments.

Legality of the process

Your Committee expressed its concerns that, given that the dissolution and realignment process was already underway, presenting the bill to Congress at this time constituted "putting the cart before the horse."

The representative from the Department of Justice advised that the President's Executive Order previewed that a bill dissolving SBOC would be submitted to Congress for its approval because the President recognized that his organizational realignment would require Congress to amend the law to comport with the new organizational reality. The representative also drew the Committee's attention to section 206 of

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Title 2 as a legal basis for the President's actions to assign the duties and functions of Executive departments.

Your Committee noted that for the future it would be good practice for the Legislative and Executive branches to coordinate better to avoid future processes that could be construed as "putting the cart before the horse." The representative from the Office of the President indicated that your Committee's message in this regard had been received, but that the President was motivated to act quickly during the transition period in the hopes of being further along in fully staffing the Executive Branch by the start of the new fiscal year.

Results of the realignment

Your Committee inquired as to the current placement of the functions of the Division of Overseas and Development Assistance (ODA) and the Division of Compact Management.

The representative of the Office of the President advised that at present both of these divisions have been assigned to the Office of the President while a process is undertaken to determine the most appropriate placement of each division in existing Executive departments. He indicated that the President has some ideas about how to improve how these Divisions function with respect to interactions with foreign states.

The Secretary of Finance and Administration indicated that, in her opinion, the Division of Compact Management should be moved back to the Department of Finance. The representative of the Office of the President stated that with respect to this division, a case could also be made that it belongs in the Department of Foreign Affairs although placement there would entail a degree of capacity building to ensure optimal functioning.

Your Committee also inquired of the former employee of SBOC in attendance for his thoughts on the results of the realignment. He

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advised that he is comfortable with the results and that it is his role to support the government in its efforts.

The Chairman of your Committee closed the hearing by thanking the witnesses for the information they provided and for attending the Saturday hearing.

Your Committee would like to offer the following technical amendments, to read as follows:

1. Page 2, line 3, after "This act shall" delete "act shall" to eliminate redundant text.

Your Committee is in accord with the intent and purpose of C.B. No. 19-39 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. 19-39, C.D.1.

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Respectfully submitted,

/s/ Tiwiter Aritos
Tiwiter Aritos, chairman

/s/ Alik L. Alik
Alik L. Alik, vice chairman

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

Berney Martin, member

/s/ Ferny S. Perman
Ferny S. Perman, member

Robson Romolow, member

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