



The President
Palikir, Pohnpei
Federated States of Micronesia

PRESIDENTIAL COMM. NO. 18-414
FSM CONGRESS

November 26, 2014

The Honorable Dohsis Halbert
Speaker
Eighteenth Congress of the Federated States of Micronesia
Palikir, Pohnpei FM 96941



Dear Speaker Halbert:

I transmit the following Congressional Act, which became Public Law No. 18-100 due to Congressional override of my veto:

Congressional Act No. 18-97, entitled: "AN ACT TO FURTHER AMEND TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY ENACTING A NEW CHAPTER 16 THEREOF, FOR THE PURPOSE OF ESTABLISHING THE POHNPEI STATE COMMISSION ON IMPROVEMENT OF PROJECTS, AND OTHER PURPOSES."

In my transmittal to Congress dated October 31, 2014, I explained to Congress my position on this issue. I do not wish to restate here the reasoning of my veto, however, by reading the committee report, it is clear that the rationale behind the veto was not fully understood.

Establishing a commission that implements the public projects from Congress circumvents the Executive as the implementer of public laws. Creating a commission that goes parallel with the Executive and performs some of the functions of the Executive constitutes an affront of the separation of powers enshrined in the constitution. The Supreme Court elaborated on the concept of separation of powers in the Udot case and came to a realization that even the CSCIP, which was used as model for a Pohnpei commission, was itself "suspect." Several years after the Udot court opinion was issued, Congress agreed to dissolve the CSCIP. But this public law attempts to resurrect a questionable procedure of implementing public projects.

In light of the above, the Executive will use the constitution as its guide to ensure that when implementing the laws of this nation, the necessary constitutional precepts are preserved.

Sincerely,


Manny Mori
President

Enclosure:

Xc: Acting Chief Justice, FSM Supreme Court
Secretary, Department of Justice
Director, Office of SBOC
Legislative Counsel, CFSM
Library, CFSM
FSM PIO



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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RESIDENTIAL COMM. NO. 18-414
FSM CONGRESS

Office of the Chief Clerk

November 24, 2014



His Excellency Manny Mori
President
Federated States of Micronesia
Palikir, Pohnpei FM 96941

Dear President Mori:

I have the honor to transmit herewith Congressional Act No. 18-97, "AN ACT TO FURTHER AMEND TITLE 55 OF THE CODE OF THE FEDERATED STATES OF MICRONESIA, AS AMENDED, BY CREATING A NEW CHAPTER 16 THEREOF, FOR THE PURPOSE OF ESTABLISHING THE POHNPEI STATE COMMISSION ON IMPROVEMENT PROJECTS, AND FOR OTHER PURPOSES.", which was repassed on November 19, by the Eighteenth Congress of the Federated States of Micronesia, Fifth Special Session, 2014, by a three-fourths vote of all the State delegations as required and as duly certified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Liwiana Ramon Ioanis".

Liwiana Ramon Ioanis
Chief Clerk, Congress of the
Federated States of Micronesia

Enclosures

PUBLIC LAW No. 18-100



EIGHTEENTH CONGRESS OF THE
FEDERATED STATES OF MICRONESIA
FIFTH SPECIAL SESSION
NOVEMBER 17 - 26, 2014

PRESIDENTIAL COMM. NO. 18-414
FSM CONGRESS

An Act

TO FURTHER AMEND TITLE 55 OF THE CODE OF THE FEDERATED STATES OF
MICRONESIA, AS AMENDED, BY CREATING A NEW CHAPTER 16 THEREOF, FOR
THE PURPOSE OF ESTABLISHING THE POHNPEI STATE COMMISSION ON
IMPROVEMENT PROJECTS, AND FOR OTHER PURPOSES.

INTRODUCED BY: SENATOR DOHSIS HALBERT

DATE: MAY 28, 2014

REPASSED: NOVEMBER 19, 2014

A handwritten signature in black ink, appearing to read "Liwiana Ramon Ioanis".

Liwiana Ramon Ioanis
Chief Clerk, FSM Congress



CONGRESS OF THE FEDERATED STATES OF MICRONESIA

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Office of the Speaker

PRESIDENTIAL COMM. NO. 18-414
FSM CONGRESS

ACT NO. 18-97

(CONGRESSIONAL BILL NO. 18-180, C.D.1)

I hereby certify that on November 19 the foregoing act was repassed by the Eighteenth Congress of the Federated States of Micronesia, Fifth Special Session, 2014, by a three-fourths vote of all the State delegations as required under article IX, section 2(q), of the Constitution of the Federated States of Micronesia.


Dohsis Halbert
Speaker
Congress of the
Federated States of Micronesia

AN ACT

To further amend title 55 of the Code of the Federated States of Micronesia, as amended, by creating a new chapter 16 thereof, for the purpose of establishing the Pohnpei State Commission on Improvement Projects, and for other purposes.

BE IT ENACTED BY THE CONGRESS OF THE FEDERATED STATES OF MICRONESIA:

1 Section 1. Title 55 of the Code of the Federated States of
2 Micronesia, as amended, is hereby further amended by creating a
3 new chapter 16 entitled: "Pohnpei State Commission on Improvement
4 Projects."

5 Section 2. Title 55 of the Code of the Federated States of
6 Micronesia is hereby further amended by adding a new section 1601
7 to chapter 16 to read as follows:

8 "Section 1601. Commission created.

9 There is hereby created a Pohnpei State Commission on
10 Improvement Projects ('PSCIP'). The commission shall be
11 composed of the following: a representative from each of
12 the election districts within the State of Pohnpei, or his
13 designee, and the Budget Officer of the Pohnpei State
14 Government. A majority of the chief municipal executives
15 of the election district shall select a person from within
16 the district to represent the district on the PSCIP."

17 Section 3. Title 55 of the Code of the Federated States of
18 Micronesia is hereby further amended by adding a new section 1602 to
19 chapter 16 to read as follows:

20 "Section 1602. Commission — Organization; Quorum; Interim

1 Manager.

2 (1) The commission shall meet to organize itself and to
3 select a chairman and a vice chairman. The presence of a
4 majority of the representatives from the election districts
5 shall be necessary to constitute a quorum. Meetings shall
6 be conducted according to bylaws adopted by the members.
7 The Pohnpei State Budget Officer will be a non-voting
8 member.

9 (2) Until such time as sufficient representatives have
10 been selected to constitute a quorum to organize, the
11 Governor of the State of Pohnpei is authorized to appoint
12 an interim manager to carry out duties and responsibilities
13 authorized under subsections (1) through (5) of section
14 803.

15 (3) Members of the commission shall serve terms of four
16 (4) years.

17 (4) To stagger the replacement of commission members,
18 of the first commission to organize and the first only, one
19 election district member shall serve a two year term, one a
20 three year term, and one a four year term. The commission
21 members shall determine this by a fair, random method of
22 selection.

23 (5) Members may be removed by a majority vote of the
24 chief municipal executives in their election district.
25 Removal shall be based on misconduct. Replacement members

1 shall be elected from the same election district."

2 Section 4. Title 55 of the Code of the Federated States of
3 Micronesia is hereby further amended by adding a new section 1603 to
4 chapter 16 to read as follows:

5 "Section 1603. Commission - Authority.

6 The commission shall have the authority to:

7 (1) Obligate funds appropriated and allotted to the
8 commission by the Congress for projects in Pohnpei;

9 (2) Award and enter into contracts for projects, giving
10 priority to bids by Micronesian citizens or corporations
11 qualified and capable of performing fully and without delay
12 such projects;

13 (3) Assess damage to private property caused by
14 projects and negotiate written settlements on amounts of
15 compensation, such written settlements to be treated as
16 obligations for the purposes of the Financial Management Act
17 of 1979;

18 (4) Establish priorities for the performance of
19 projects, ensuring that each district is treated as equally
20 as possible;

21 (5) Submit all reports required by applicable law,
22 including, but not limited to, the Financial Management Act
23 of 1979; and

24 (6) Appoint an executive director, who may carry out
25 such duties of the commission as the commission deems

PUBLIC LAW No. 18- 100

advisable; the commission may authorize the executive
director to hire staff."

Section 5. This act shall become law upon approval by the
President of the Federated States of Micronesia or upon its becoming
law without such approval.

_____, 2014

Override

Manny Mori
President
Federated States of Micronesia