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A BILL FOR AN ACT

To amend Section 25 of Public Law No. 1-47 to dispense with administrative review of the ad hoc committee's decision on a disciplined employee's appeal, and for other purposes.

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

1 Section 1. Section 25 of Public Law No. 1-47 is hereby amended
2 to read as follows:

3 "Section 25. Disciplinary Action.

4 (1) Suspension. A management official may, for
5 disciplinary purposes, suspend any employee without pay
6 for such length of time as he considers appropriate but
7 not to exceed thirty days at any one time or sixty days in
8 any twelve-month period. No single suspension for a
9 period of more than three working days, whether consecutive
10 or not, shall take effect until the management official
11 transmits to the employee, by the most practical means, a
12 written notice setting forth the specific reasons for
13 the suspension and the employee's rights of appeal. A copy
14 of the notice shall be filed with the Personnel Officer
15 without delay. With the approval of the Personnel Officer,
16 an employee may be suspended for a period longer than
17 thirty days pending the investigation of any charge against
18 him. When an employee has been suspended pending such an
19 investigation and the charge is subsequently dropped, he
20 shall be reinstated in his position with full pay and
21 benefits retroactive to the date of suspension.

22 (2) Dismissal; Demotion: A management official may,
23 for disciplinary reasons, dismiss or demote an employee
24 when he determines that the good of the Public Service
25 will be served thereby. Demotions may also be made for

J860

1 reasons other than disciplinary ones; the Personnel
2 Regulations shall specify the circumstances in which
3 such demotions may be authorized. No dismissal or
4 demotion of a permanent employee shall be effective
5 for any purpose until the management official
6 transmits to the employee, by the most practical means,
7 a written notice setting forth the specific reasons for
8 the dismissal or demotion and the employee's rights of
9 appeal. A copy of the notice shall be filed with the
10 Personnel Officer without delay.

11 (3) Appeals from Suspension, Dismissal, or Demotion.

12 (a) The President shall nominate and, with
13 the advice and consent of the Congress, shall designate
14 not fewer than seven persons to constitute a panel
15 from which ad hoc hearing committees may be drawn for
16 the purpose set forth in this Subsection. The President
17 may remove a member of the panel for cause. Persons
18 nominated shall be officers or employees of the Government
19 of the Federated States of Micronesia, of mature judgment
20 and experience. The panel shall include at least one
21 member from each of the three branches of government.
22 The President and Vice-President of the Federated States
23 of Micronesia, members of the Congress, and justices
24 and other judges of the national courts shall not be
25 eligible for membership on the panel.

J460

1 (b) Any regular employee who is suspended for
2 more than three working days, demoted, or dismissed may
3 appeal through the Personnel Officer within fifteen
4 calendar days after written notice of the suspension,
5 demotion, or dismissal has been transmitted to him.
6 Upon receiving such appeal, the Personnel Officer shall
7 constitute an ad hoc hearing committee of three members,
8 drawn from the panel established under Paragraph (a).

9 (i) The ad hoc committee shall comprise
10 one member chosen by the Personnel Officer, one chosen
11 by the appellant, and a third chosen jointly by the
12 first two members. If the first two are unable to agree
13 on the choice of a third member, the third member shall
14 be selected by lot from among the remaining members of
15 the panel.

16 (ii) No member of an ad hoc committee shall
17 be an officer or employee of the agency to which the
18 appellant is or was assigned, or a close relative of
19 either the appellant or the responsible management
20 official.

21 (iii) Members of ad hoc committees shall
22 not be entitled to additional compensation for such
23 service, but shall be reimbursed for necessary
24 expenses connected with any hearing to which they are
25 assigned.

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1 (c) The hearing shall be held within fifteen
2 calendar days after the Personnel Officer receives
3 the appeal, unless the appellant requests a delay.
4 At the hearing, the appellant and the responsible
5 management official shall each have the right to be
6 heard, to present evidence, to be confronted by all
7 adverse witnesses, and to be represented by counsel
8 of his own choosing.

9 (d) At the hearing, technical rules of
10 evidence shall not apply, and evidence shall be taken
11 stenographically or by recording machine. The
12 committee shall on its own motion or on that of the
13 Personnel Officer, management, or the appellant,
14 subpoena witnesses and tangible evidence, when such
15 witnesses or evidence are relevant and material to
16 the hearing. Hearings shall be public except when
17 the appellant requests a closed hearing.

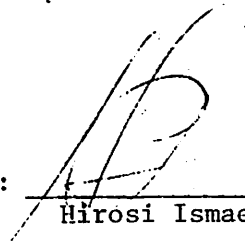
18 (e) The committee shall prepare a full written
19 statement of its finding of fact and its ~~recommendations~~
20 ~~of action~~ decision within seven calendar days after
21 the close of the hearing. Its ~~recommendations~~ decision
22 may include modification or reversal of the disci-
23 plinary action from which appeal was taken. It shall
24 forthwith transmit that statement, with such supporting
25 documentation as it deems appropriate, to the highest

J4 60

1 management official responsible for the agency in
2 which the appellant is or was employed. The decision
3 of ~~that management official~~ the committee shall be final.

4 (f) Disciplinary actions taken in conformance
5 with this Section shall in no case be subject to
6 review in the courts until the administrative remedies
7 prescribed herein have been exhausted; nor shall they
8 be subject to such review thereafter except on the
9 grounds of violation of law or regulation or of denial
10 of due process or of equal protection of the laws."

11 Section 2. This act shall become law upon approval by the
12 President of the Federated States of Micronesia or upon its becoming
13 law without such approval.

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15 Date: May 14, 1982 Introduced by: 
16 Hirosi Ismael

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