



THIRTEENTH KOSRAE STATE LEGISLATURE  
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Misc. Comm.

No. 13-20

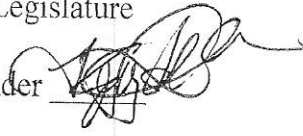
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Office of the Legislative Counsel

May 09, 2023

MEMORANDUM

TO : Semeon J. Phillip  
Speaker  
13<sup>th</sup> Kosrae State Legislature

FROM : Krystle Y. Melander   
Legal Counsel  
Kosrae State Legislature

SUBJECT : LEGAL OPINION RE: Article IV Section 13 of the Kosrae State Constitution  
1.0 Introduction

Misc. Communication No. 13-18 has been assigned to J&GO dated April 26, 2023, is a letter from Mr. Steven L. George challenging the outcome of his nomination. L.R. No. 13-32 was first considered on April 11, 2023 which consents and confirms to the nomination of Mr. Steven L. George to serve as a members of the FSM Petroleum Corporations Board of Director which resulted in 9 Yes votes and 3 No votes entered in the Journal of the Kosrae State Legislature. Same Resolution was reconsidered on April 20, 2023 with the same results for Mr. George.

2.0 Legal Issues:

2.1 Article IV Section 13 of the Kosrae State Constitution provides for base denomination as 11 or 14?

3.0 The Law:

3.1 Kosrae State Constitution: Article IV, Section 2:

“The Legislature is composed of fourteen Senators, who are elected by the qualified voters of the electoral districts of Lelu, Malem, Tafunsak, and Utwe.”

3.2 Kosrae State Constitution: Article IV, Section 13:

“Three-fourths of the Senators constitute a quorum for the conduct of ordinary business, for which a majority vote of the quorum suffices. The final passage of a bill or resolution requires the vote of two-thirds of the Senators taken by a roll call vote and entered in the journal. A smaller number than a quorum may adjourn from day to day and may compel the attendance of absent Senators in a manner and subject to such penalties as the Legislature may prescribe.

#### 4.0 Opinion

- 1) Article IV Section 13 of the Kosrae State Constitution states that the final passage of a bill or resolution requires the vote of two-thirds of the Senators taken by roll call vote and entered in the journal. The Legislature is composed of fourteen (14) members as clearly stated on Article IV, Section 2 of the Kosrae State Constitution.  $2/3$  of the Senators is  $2/3$  of 14 Senators. The Kosrae State Constitution states that the passage of a bill or resolution requires the vote of two-thirds of Senators and not of quorum of Senators or present members. First sentence of Article IV, Section 13 of the Kosrae State Constitution addresses when a quorum is established to conduct ordinary business and majority vote of quorum suffices, which is referring to ordinary business of legislature and not passage of resolutions to be relevant in this issue. Furthermore, there is not a Rule 2.5.9 of the updated Kosrae State Rules of Procedure as referred to by Mr. George on his last paragraph of his letter. The resulting figure of  $2/3$  of 14 is 9.3333, and 9 votes for Mr. George is still less than the required votes. We can all agree that there are no "half people" so if the result of a calculation is not a whole number when calculating voting requirements; it should be 10 instead of 9.3333.

Based on the foregoing, it is my opinion, as Legal Counsel for the Kosrae State Legislature, that: the base denomination as stated under Article IV, Section 13 is 14. Mr. Steven L. George's nomination resolution did not meet the required number of votes required to pass a resolution thus his resolution has been defeated by the Kosrae State Legislative members.

Respectfully submitted,

*Deid 05/09/23*  
*@ 3:30pm*  
*Kel / Hahn*