

hanabusa1

From: Sen. Les Ihara, Jr.
Sent: Friday, November 14, 2003 12:14 AM
To: Sen. Colleen Hanabusa
Cc: Sen. Cal Kawamoto; Sen. Suzanne Chun Oakland; Sen. J. Kalani English; Sen. Carol Fukunaga; Sen. Bob Hogue; Sen. Robert Bunda; Sen. Shan Tsutsui; Sen. Donna Mercado Kim
Subject: FW: Conference Committees

To SR 147 Committee Chair & Members: I have provided FYI an email response from NCSL to a request to research conference committee procedural practices in other state legislatures.

LES IHARA, JR.
State Senator, 9th District

From: Brenda Erickson
Sent: Thursday, November 13, 2003 11:16 AM
To: senihara@capitol.hawaii.gov
Subject: Conference Committees

Senator Ihara:

Conference committee procedures usually are incorporated as part of either the joint or Senate/House/Assembly rules. I know of two states that don't use conference committees--Delaware by tradition and Nebraska because its legislature is unicameral.

Most commonly, a conference committee report must be approved by majority vote of the conferees from each chamber. The second most frequently used vote requirement is majority of all conferees. I am not aware of any other legislature that gives special "approval or veto" power over conference reports to a fiscal (or any other) committee chair. When appointing conferees, however, some chambers include the chair (or a member) from the standing committee with jurisdiction--which could be the fiscal committee if the bill being considered had fiscal implications.

I hope this information is helpful. Please let me know if you have any questions or need further assistance.

Sincerely,

Brenda Erickson
NCSL Legislative Management Program
7700 East First Place
Denver, CO 80230
phone: 303-364-7700, x1391
e-mail: brenda.erickson@ncsl.org

hanabusa1

From: Arvid T. Youngquist [thirr33@yahoo.com]
Sent: Monday, November 17, 2003 6:45 PM
To: Colleen Hanabusa
Subject: Follow-Up Testimony on Draft Report to S.R. No. 147 Hearing of 10/20/2003

Senate Judiciary & Hawaiian Affairs Committee

Chairman Sen. Colleen Hanabusa
Vice Chair Sen. Suzanne Chun Oakland
Senate Majority Leadership
Sen. Donna Mercado Kim (Vice President)
Sen. Shan S. Tsutsui (Majority Caucus Leader)
Hearing on Draft Report for S.R. No. 147
Monday, Nov. 24th, 2003 2:30 PM

Thank you for transmitting an electronic version of your hearing notice. I appreciate it very much and plan to attend in person to testify.

I would like to provide the following additional remarks relative to the language of the draft report.

There were two options offered regarding Committee decision making: (a) increase the Committee membership (b) decrease the number of Committees.

I think a **third option** should be also considered: have less members on Committees, except for the Ways and Means (and the Finance Committee). These committees both have 15 members. Since these are both important Committee assignments, perhaps the number 15 should be retained.

But for the House to have 15 on CPC & JUD, and the Senate to have less on equivalent Committees places a disproportionate membership during the Session. There is no remedy to this.

Having either 3 or 5 members at most, & limiting Committee memberships to not more than 3 separate Committees, and also having either the Chair or the Vice Chair of all Committees be alternately from Oahu or the Neighborhor Islands might assist in providing the proportionate representation during the Session, and furthermore limiting the number of Committee obligations to 3 might take the burden of multiple memberships and duties off the legislators.

In the **House**, AGR & EDB Committees with **14** members is disproportionate in representation. In the Senate CPH, ECD, EDU, HMS, JHW, & TMG are each **7** member Committees. ENE, HTH, & TSM are **6** member Committees. And LBR, SAT, & WLA Committees are **5** member Committees. Senators in Committees with **6** or **7** members could be excused some of the Committee assignments, so that Committee hearings are well-represented by Senators, and also so that they are not so thinly spread out. Since the House has twice as many members as the Senate, multiple Committee assignments is less of a problem, and in fact it may be desirable for the freshmen legislators.

But for the Senators, reducing the number of Committee members and limiting the number of Committees on which they must serve might alleviate the difficulty in hearings & decision-making.

Most of what I wanted to discuss have been covered in my previous communications (Emails), but

this final follow-up is something that escaped me initially.

Mahalo for this opportunity to provide testimony and in-put on your draft report to S.R. No. 147 which very much appears to be a collaborative work in progress. I am looking forward to your decision-making on the **Final Report** and a conclusive vote during January 2004.

Sincerely yours,

\s\

Arvid T. Youngquist

P O Box 37542

Honolulu, HI 96837

540-1910

thirr33@yahoo.com <<mailto:thirr33@yahoo.com>>

Arvid Tadao Youngquist

c/o The Mestizo Association

P. O. Box 37542 Honolulu, Hawaii 96837

Tel. (808) 540-1910 (unlisted voice mail)

"Ye shall know the Truth and the Truth shall set you free."

(A Scripture Quotation at the Foot of the U.T. Tower in Austin, Texas)

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hanabusa1

From: Arvid T. Youngquist [thirr33@yahoo.com]
Sent: Thursday, November 13, 2003 9:21 PM
To: Colleen Hanabusa
Subject: "Corrected Copy"Testimony for 11/24/2003 Hearing on Draft Report for S.R. No. 147

Lehua:

Hello. Thanks for sending me the cover letter with the draft report by the Committee Chair. This is a short corrected testimony. Corrections (2) are bracketed []:

"Arvid T. Youngquist" <thirr33@yahoo.com> wrote:

Date: Thu, 13 Nov 2003 22:20:52 +0000 (GMT)
From: "Arvid T. Youngquist"
Subject: Testimony for 11/24/2003 Hearing on Draft Report for S.R. No. 147
To: Colleen Hanabusa

Senate Committee on Judiciary & Hawaiian Affairs
& Senate Leadership Senators
Nov. 24, 2003
Hearing on Draft Report for S.R. No.147

Thank you for providing me this opportunity to submit written testimony on the draft report for S.R. 147 for the hearing held on 10/20/2003.

My name is Arvid T. Youngquist. I testify as a private citizen and as an individual.

In am [in **general support** for the] various options and alternatives suggested in the draft report. They are all improvements on the existing model. Although providing the Senate President carte blanche authority to promulgate any Senate Rules or Amendments gives me pause, as the Rules are the Standing Rules, if the majority, either of the Democratic Caucus or the majority of the **25** Senators voting in the affirmative in open session appears to me to be **equitable** and **fair**.

The reduced powers and influence of the Conference Chairs may be acceptable also even if it does so by increasing the powers of the money committee chairs.

The various references to how the Hawaii Constitution is silent on certain subjects relative to the Senate Rules, and that the Rules are not in violation of the Hawaii Constitution might either be remedied voluntarily by Amending the Senate Rules, or in an extreme circumstance, Amending the Hawaii Constitution, or calling for a Con-Con.

Although the draft report makes no direct recommendations, the final report should provide the Senators, a list of **acceptable alternatives** and options for change, if they are so inclined, amongst such list, the Senate President could choose a Senate Rule acceptable to the Democratic Caucus and the Senate Membership majority. This must be **considered** in the case the Caucus is divided evenly with only [1-5] margin of difference.

Thank you for this opportunity to supply written testimony about the draft report and I hope the January 2004 session will be the dawning of "a new age" of open government legislation and voluntary public scrutiny which will pass muster of "good government."

Mahalo.

Arvid T. Youngquist
P O Box 37542
Honolulu, HI 96837
540-1910
thirr33@yahoo.com <<mailto:thirr33@yahoo.com>>

Arvid Tadao Youngquist
c/o The Mestizo Association
P. O. Box 37542 Honolulu, Hawaii 96837
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hanabusa1

From: Arvid T. Youngquist [thirr33@yahoo.com]
Sent: Thursday, November 13, 2003 12:21 PM
To: Colleen Hanabusa
Subject: Testimony for 11/24/2003 Hearing on Draft Report for S.R. No. 147

Senate Committee on Judiciary & Hawaiian Affairs
& Senate Leadership Senators
Nov. 24, 2003
Hearing on Draft Report for S.R. No.147

Thank you for providing me this opportunity to submit written testimony on the draft report for S.R. 147 for the hearing held on 10/20/2003.

My name is Arvid T. Youngquist. I testify as a private citizen and as an individual.

In am **general in support** the various options and alternatives suggested in the draft report. They are all improvements on the existing model. Although providing the Senate President carte blanche authority to promulgate any Senate Rules or Amendments gives me pause, as the Rules are the Standing Rules, if the majority, either of the Democratic Caucus or the majority of the **25** Senators voting in the affirmative in open session appears to me to be **equitable** and **fair**.

The reduced powers and influence of the Conference Chairs may be acceptable also even if it does so by increasing the powers of the money committee chairs.

The various references to how the Hawaii Constitution is silent on certain subjects relative to the Senate Rules, and that the Rules are not in violation of the Hawaii Constitution might either be remedied voluntarily by Amending the Senate Rules, or in an extreme circumstance, Amending the Hawaii Constituion, or calling for a Con-Con.

Although the draft report makes no direct recommendations, the final report should provide the Senators, a list of **acceptable alternatives** and options for change, if they are so inclined, amongst such list, the Senate President could choose a Senate Rule acceptable to the Democratic Caucus and the Senate Membership majority. This must be **considered** in the case the Caucus is divided evenly with only 1-3 margin of difference.

Thank you for this opportunity to supply written testimony about the draft report and I hope the January 2004 session will be the dawning of "a new age" of open government legislation and voluntary public scrutiny which will pass muster of "good government."

Mahalo.

Arvid T. Youngquist
P O Box 37542
Honolulu, HI 96837
540-1910
thirr33@yahoo.com <<mailto:thirr33@yahoo.com>>

Arvid Tadao Youngquist

c/o The Mestizo Association
P. O. Box 37542 Honolulu, Hawaii 96837
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HAWAII CLEAN ELECTIONS COALITION
49 s. Hotel Street, Suite 314, Honolulu, HI 96813

TO: Senate Judiciary Committee and Senate Leadership
FROM: Grace Furukawa, President, Hawaii Clean Elections Coalition
RE: Senate Resolution 147, Senate Rules
DATE: Monday, November 24, 2003, 2:30 PM in Room 229

My name is Grace Furukawa and I am President of the Hawaii Clean Elections Coalition. I wish to express my sincere Mahalo to this committee for considering the issue of the assignment of bills in the Senate, even though it was not in the original discussion

Your suggestion noted who is responsible for bill referrals and that bill referrals be "based upon the standing committee as described in Rule 17". For five years now it seems our bill has always been assigned in such a way as to insure its defeat. The Committee on Transportation, Military Affairs and Government Operations deals with those programs relating to air, water, and surface transportation; civil defense; military and veteran's affairs; state government operations policy including procurement and government efficiency; ethics; county, federal, and foreign relations; and matters of concern to the counties. The Judiciary Committee, among other things has specific jurisdiction over campaign spending and elections.

Also there is a question of deferring bills without a vote. We feel this should be subject to a vote of the committee. Without that vote the public cannot know where the various senators stand on an issue. They feel that this is only another avenue for one legislator to defeat a bill.

We hope this year, after the passage of our bill in the House; it will be given a chance in the Senate. When the public perceives that a system is manipulated anywhere along the route to assure passage or defeat of any measure, it withdraws from participating in the process and no longer feels their community concerns matter. It defeats the democratic process.

SR147 Relating to Senate Rules; Interim Study on Committee

Monday, November 24, 2003; Time: 2:30 PM; Place: Conference Room 229;
State Capitol 415 South Street;
From: Paulette A. Tam; P O Box 4787, Kaneohe HI 96744 or
PTam1861@yahoo.com

P Tam *PTam*
P O Box 4787
Kaneohe HI 96744

**Attn: Senator Colleen Hanabusa, Chairman and Members of the
Judiciary and Hawaiian Affairs Committee, Appointed Members of Senate
Leadership & interested Members of the Public:**

I support the Draft Report SR147, because to me the current decision-making conference procedures appears to hinder Senate or House Bills addressed at joint or standing committee meetings from reaching the "Legislature's Floor for a final vote" has given me the impression grass roots public participants' efforts isn't welcomed which results with a sensible belief that:

"It is a waste of the public's participation unpaid personal time and out of pocket expenses for 20 + written testimony (paper) copies, automobile gas, lunch, parking, lost employment wages when a person takes unpaid leave to testify, and taxes that pay the legislators wages."

Please pass the Draft Report SR147 Relating to Senate Rules; Interim Study on Committee.



THE LEAGUE OF WOMEN VOTERS OF HAWAII

49 SOUTH HOTEL STREET, ROOM 314 HONOLULU, HAWAII 96813 PH. (808) 531-7448

November 24, 2003

TESTIMONY ON S.R. NO. 147 REQUESTING THE SENATE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS and two members of senate leadership to conduct an interim STUDY of the senate rules regarding DECISION-MAKING by STANDING committees and conference procedures regarding DECISION-MAKING BY conference committees.

The League of Women Voters of Hawaii
Testifying: Jean Aoki, Legislative Chair

Chair Hanabusa, Senate Vice-President Kim, Majority Caucus Leader Tsutsui, and members of the Senate Committee on Judiciary and Hawaiian Affairs,

The League of Women Voters would first like to thank you for this opportunity to testify on the draft report and for your efforts which made these open meetings on parts of the Senate Rules possible. We also appreciate your allowing comments on other procedures not specified by Senate Resolution 147. As far as I know, the two open hearings held by this committee on a review of certain Senate rules are unprecedented.

The purpose of this study, as you proclaim in page two of your report under Background, is to consider whether the Senate rules and the conference procedures "need to be amended to ensure that Senators' voting rights are fairly apportioned and considered".

You also note that, in the opinion of the Attorney General, in the absence of a constitutional mandate, the Legislature has exclusive authority to determine the procedures necessary to conduct legislative affairs. We do concede that the State is all-powerful except as restrained by certain provisions in the constitution and provisions which serve to protect the rights of the people. But when the people see the unfairness of certain procedures or rules, it is not easy to amend the constitution to institute

protections for the people. For one thing, under the present system, the Legislature must approve any proposed amendments to the constitution before they are placed on the ballot. If this body were inclined to approve such a proposed amendment, you would amend your rules to reflect the objective(s) of such an amendment.

In the opinion of the Attorney General, the equal protection clause and the one person, one vote principle does not require a properly apportioned legislative body to distribute power and influence so that every legislator is as powerful and influential as every other member of the body. We can agree with that. We note that even if you were to operate with no committees except a committee of the whole, natural leaders will rise who will wield more power even if the power were not bestowed upon them by rules, by virtue of their leadership skills and the respect accorded them by the other members. A body needs some people in positions of different degrees of power to assure that the work of the body is accomplished and on time.

The Attorney General goes on to say that the U.S Supreme Court has held that changes which affect only the distribution of power among officials have no direct relation to, or impact on, voting; and that the only legally protectable interest of legislators is in not having their final vote on a legislative act completely nullified.

But, we contend, what is legal may not necessarily be fair. What the public is addressing at this time is mostly a fairness issue—that each senator's vote carry the same weight as another senator's, not only on the final vote on a bill but on all votes, which would result in all senators' constituents having equal representation. I hark back to the purpose of this study which is to see if certain decision-making procedures related to decision-making by conference committees **meet constitutional muster and are open and fair**. And we do applaud this committee for bringing up certain provisions for consideration and discussion despite the Attorney General's opinion of the right of the Senate to determine senators' "voting rights".

Consistent with our views on equal voting rights for all senators, in regard to decision-making by conference committees, we very much prefer version C. in which all senators appointed to the committee are members with only one chair appointed to perform ministerial duties, except that we would want that chair to serve as lead chair as well, to be the main spokesperson for the senate conference committee. To that, there could be the addition of the amendment found in version A. which has to do with the approval of the chair of the Ways and Means Committee.

Our contention is that by giving some senators' votes more weight than the vote of the other members of the conference committees, you are denying the residents of many districts equal representation in the Senate. In so doing, you are violating the spirit of one man, one vote. What good is there in guaranteeing that the districts are divided equally by population so that each Hawaii resident enjoys equal numerical representation in the Senate, when one senator's vote is not equal to that of another senator?

Under Scope of Amendments, beginning on page 8, the proposed amendment to . a. would be a welcome one. If adhered to, it would remove the source of many complaints. The practice of slipping in new material or parts of another bill never heard, happens not only in conference committees but in subject matter committees. Amendments are announced in the decision-making phase of the hearing, especially when the decision is deferred for a few days, and the audience has no opportunity to react to it except through letters to the editors, and in other ways going public.

The suggested language under Appointment of Conference Committee Chairs and Managers is very good. However, should the senate adopt :Option C under the conference committee decision-making procedure, you might have to make some slight changes in the wording of the rule.

If the Senate should adopt the proposed amendment to the conference procedure proposed under #5. Binding Votes, it would bring a measure of integrity and openness to the process. Again, as in the prior proposed amendment, should the senate opt for Option C, the wording for this proposed amendment would need to be changed.

We applaud the proposed amendment to Rule 46 (3) which is intended to assure that all bills are referred to the appropriate committees. Any person or group that has a bill introduced in the legislature has the right to expect that its bill be accorded the proper respect, beginning with a referral to the committee that has jurisdiction over that particular subject matter.

On number 8, Decision to Defer, I'm not entirely convinced by your arguments. Your claim that a deferred measure can be restored to the standing committee's hearing agenda at any time because it has not been held in committee is a defensible argument except that, as is pointed out in in various parts of your document, the internal and external deadlines of this house and the entire legislature places constraints on the time available for maybe preferred practices to be followed, and, I contend, probably places

barriers to the measure ever being restored. Also, in answer to another argument in defense of the practice, generally when a bill needs to be redrafted, or a complicated amendment made, the chair will defer the decision-making to some date certain, or announce that when the bill is ready, the notice for the decision-making will be posted. If this ruling is to be used, at the very least, it would help if the chairs were to announce the reasons for the deferment.

As far as 9. Standing Committee Decision-Making Rules, the present practice is far preferable to the practice by congressional standing committees, where, in a recent committee meeting where amendments were being considered, every second or third vote seemed to be "aye by proxy", or "no by proxy".

Again, the League of Women Voters wishes to extend our sincere appreciation for first, hearing all of the public's concerns, and then giving us this opportunity to comment on your draft report. We also appreciate the thorough discussion which precedes your proposals to amend or not to amend certain rules. Thank you.



GREEN PARTY of HAWAII

November 23, 2003

TO: COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Senator Colleen Hanabusa, Chair

**TESTIMONY
COMMENTS ON INITIAL REPORT ON**

S.R. No. 147, "considering Senate rules regarding decision-making by standing committees and conference procedures regarding decision-making by conference committees."

Monday, November 24, 2003
Conference Room 229

Good Afternoon-

First, I would like to commend this special committee and its Chair for reviewing these questions about Senate rules. I note too that the public is watching, and supportive of the proposed changes to democratize the Senate procedures. Both the Honolulu Advertiser and Star Bulletin contained approving editorials last month-- "**Legislature needs shot of democracy**" (Oct 22)
<http://starbulletin.com/2003/10/22/editorial/editorials.html>

"Democracy means all lawmakers are equal" (Oct 22)
<http://the.honoluluadvertiser.com/article/2003/Oct/22/op/opo2a.html/>

Second, I want to endorse two vital principles, that others have spoken on in length and detail. Your final report should recommend essentially that:

- 1) Chairs should **not** have veto powers over Conference Committee decisions.
- 2) Bills should always be assigned to committees which have a **normal, direct, and logical** jurisdiction over the subject matter of the bill. Descriptions or interpretations of committee responsibilities should be not be gamed to allow a Chair to capture control over any bill he or she wants to hear, regardless of the normal purview of that committee.

Finally, I believe the Committee, which has examined these rules in considerable detail, should present a strong set of pro-democracy recommendations to the full senate.

Thank you,

Ira Rohter
Ira Rohter
State CoChair
732-5497

To: Senator Colleen Hanabusa, Chair
Senate Committee on Judiciary
State Capitol, Honolulu, HI 96813
Fax 586-7797

November 24, 2003

Re: Senate Resolution 147

Chair Hanabusa, Vice Chair Chun Oakland, and Members of the Committee

Thank you for convening this special committee in an open manner with citizen input. It is very timely that you are addressing some of the obstacles to fair and democratic law making. In the interest of justice and democracy something must be done to reduce the ability of a few to determine the fate of legislation even when the large majority of the legislators and the citizens are supportive. This situation is very demoralizing for citizens and may explain in part the relative low voting turnout.

I highly recommend two major corrections be made to our Senate Rules, which I believe have been abused.

1. Change the Senate's arbitrary any-committee-referral rule with assignment of bills to committees of relevant subject matter. The current rules are subject to blatant manipulation.
2. Eliminate the veto power of conference committee chairs. This is subject to outrageous special interests against fairness and equality of the majority of senators.

Ironically, the above practice, which I would characterize as "not very clean" political abuse, has been a major factor in derailing Clean Election reform in Hawaii.

Thank you for hearing our views.

Mahalo and Aloha,

Rev. Samuel L. Director
Christian Unity and Interreligious Concerns
Hawaii District, United Methodist Church
1216 Keolu Drive, Kailua, Hawaii 96734

Senator Colleen Hanabusa
Chair, Senate Committee on Judiciary

November 23, 2003

Re: S.R. 147

Aloha Chair Hanabusa, Vice Chair Chun Oakland and Members of the Committee.

Thank you for chairing this special committee in an open manner, making it possible for citizen input to be heard .

I strong support the intention of S. R. 147 which makes it mandatory that legislative bills be referred to standing committees based on the jurisdictions currently described in senate rules. I have in the past been aware of times when bills have been assigned to committees that do not have jurisdiction over the subject matter. This has not only made me distrustful of the good intentions of the senate, but it has caused many voters to withdraw from the process in distrust and disgust.

I also urge your committee to recommend deletion of the conference chair veto powers over committee reports. This veto power, as I have seen it used, as also included fiscal chair veto power. Voting in a democracy demands equality and a prohibition against special veto powers by committee chairs.

I ask that the Senate Judiciary committee make recommendations in its final report to the full senate in compliance with SR 147. Please remove from the draft report reference to decision-making in caucuses.

Thank you for considering my testimony.

Judy A. Rantala
21 Craigsid e Place 5A
Honolulu, HI 96817

Carolyn Martinez Golojuch, MSW

92-954 Makakilo Dr. #71

Makakilo, HI 96707

808 672-9050

Fax: 808 672-6347

Email: golojuhc@hawaii.rr.com

November 22, 2003

TO: SENATE JUDICIARY COMMITTEE

RE: S.R. 147

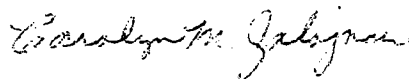
Aloha,

Senator Hanabusa, you are well known for your love of truth and justice. In fact, you have on more than one occasion put your political career on the line for the sake of these values. For this, the people of Hawaii can be grateful. This is the kind of leadership that is called for with S. R. 147.

In regards to S. R. 147:

- 1) Please be sure that conference committee chairs do not have the veto power as democracy is greatly harmed by this misplaced power. Each vote must retain its power to represent the people who elected them. I do not vote to create a throne for a despot but rather, I vote to elect a statesperson who will serve the needs of the community to the best of their ability. I expect elected officials to work for the good of the people not to line their pocketbooks, or to build empires protected by veto power. Please remove any veto power within the senate, including the removal of the fiscal veto power.
- 2) Please return the assignment of proposed Senate Bills back to the model as described in the Senate Rules which directs the bills to those committees with direct jurisdiction over the subject matter of the bill. This is only common sense. By returning to the prescribed format, democracy has an opportunity to succeed.
- 3) In compliance with S.R. 147, committees shall make recommendations in its final report to the full Senate. This will give the full Senate the benefit of the work of the committee and document the work for the information of the people of Hawaii. We have a need to know.
- 4) Please remove references to decision-making in caucuses from the draft report to assist with streamlining the reporting process.
- 5) Finally, to include and strengthen the participation of the committee members in the process within the committee, please require a vote on a chair's decision to defer a bill. This will further ensure that the committee has full participation within the committee process and will remove the appearance of a straw committee.

An interested voter and citizen,



Carolyn Martinez Golojuch, MSW

"If more people believed in justice, equality would be reality." cmg

Richard S. Miller
Professor of Law, Emeritus, University of Hawai'i at Manoa

Tel.: (808) 254-1796; Fax: (808) 254-1596
E-mail: rmiller@aya.yale.edu

TESTIMONY FOR HEARING BEFORE THE COMMITTEE ON JUDICIARY AND
HAWAIIAN AFFAIRS AND THE SENATE LEADERSHIP
Monday, November 24, 2003, 2:30 p.m., Conference Room 229

Chair Hanabusa, Vice Chair Chun Oakland, Vice-President Mercado Kim,
Caucus Leader Tsutsui and distinguished members of the Committee:

I read the report prepared in compliance with SR 147 and wish to thank you for undertaking this important project. I believe, however, that the positive effects of your efforts will only be achieved if the Senate adopts the recommendations of the Hawai'i Clean Elections Coalition. I share the Coalition's views and strongly urge their adoption.

More particularly, I believe (1) that conference committee chair veto powers, including the fiscal chair vetoes, should be deleted, and (2) that the Senate's arbitrary any-committee-referral practice should give way to rules that require assignment of bills only to those committees with clear and direct jurisdiction over the bills' subject matter.

I hope your final report will include specific recommendations consistent with these recommendations. Their adoption will go a long way to restore public confidence in our legislative practice.

Thank you very much for considering my testimony.

I regret that I cannot be present at today's hearing to testify personally.

Respectfully,



hanabusa1

From: Ruth Ellen Lindenberg [rlinden@lava.net]
Sent: Saturday, November 22, 2003 7:06 PM
To: senhanabusa@capitol.hawaii.gov
Subject: Testimony

I missed the hearing on change of Sewnate rulers. Late or not, you must know that the time is ripe to curb the power of Committee Chairs. They must not be able to override the wishes of their committees and vote their own personal wishes. I have seen too many good bills killed this way.

November 23, 2003

Thank you, Senator Hanabusa and Committee members, for again allowing me to testify. I am a neophyte at this so please bear with me.

Plato has been quoted as saying, "The penalty that good people pay for not being interested in politics is to be governed by people worse than themselves." The job of the governed is to see that our leaders are selected by those who are to be led and that they are limited in their power and held responsible for their action which must in the long run reflect the consent of those being governed—and all of this is democracy.

Those who insist that the U.S. is a republic, not a democracy, are defining democracy as mob rule. They assume that it means the people are ruling (much like what happened in California recently). What they ignore is the fact that in a representative democracy (which we do have), the people as a whole do not rule but rather they determine who will rule, and democracy is the process by which this determination is made. For all practical purposes, therefore, the Webster definitions of "republic" and "representative democracy" are interchangeable and both define the American system of government and what we mean by "democracy."

If the policies of our government are to reflect accurately the consent of the governed, much needs to be done to improve the legislative process in our state legislature. It must be realized that as long as the Legislature is controlled by a handful of Committee chairmen, the democratic process will not fulfill all that we have a right to expect of it.

If one person can kill a bill in the name of time efficiency, we submit it is still wrong to place time efficiency before the rights and hopes of people.

Nowhere is this problem better illustrated than what happened in 1962, when the second most powerful man in the United States was a man most people never heard of: Congressman Howard W. Smith of Virginia, Chairman of the then House Rules Committee. "In 1962 the members of the Congressional House were denied even the right to debate the youth-employment-opportunities bill after it had been duly reported by the House Education and Labor Committee. Why? Because the Chairman of the Rules Committee, Howard Smith, single-handedly refused to permit his own committee to vote on the bill after hearings had been held. Thus one stubborn man, one of the several all-powerful committee chairmen—prevailed over the entire U.S. Congress." (Saturday Evening Post, Columnist Roscoe Drummond). Congressman Smith had received less than 20,000 votes in the 1962 election to Congress.

In the meeting of this Committee on October 20, 2003, I was asked by a Senator, "Don't you want a Committee chair to vote his conscience?"

My answer to that is: Yes, I want him to vote his conscience; but I want all the members of the committee to vote their consciences also. The conscience of one person has the potential of being singularly arbitrary.

Then I want the winning majority of the Committee to remember that in a democratic republic the majority must remember they are to make sure that the legitimate rights of the minority are assiduously protected and guaranteed.

Thank you again for listening,
Jim and Yoshie Tanabe
94-1017 Waiolina Street
Waipahu, HI 96797 Tel. No. 677-4785

ADVOCATES FOR CONSUMER RIGHTS

C/O GEORGE FOX
802 PROSPECT STREET, APT. 308
HONOLULU, HAWAII 96813
(808) 524-6510
gfox@hawaii.rr.com

COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Senator Colleen Hanabusa, Chair
Senator Suzanne Chun Oakland, Vice Chair

SENATE LEADERSHIP

Senator Donna Mercado Kim, Vice President
Senator Shan S. Tsutsui, Majority Caucus Leader

RE: S.R. No. 147
DATE: Monday, 11/24/03
TIME: 2:00 p.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street
Honolulu, HI 96813

Honorable Chair, Vice Chair, Senate Leadership and members of the committee, Special thanks to Senator Colleen Hanabusa for chairing this special senate committee and presenting us a rare opportunity to recommend dramatic and positive changes in the way the Senate conducts the public's business. Advocates For Consumer Rights strongly believes that the Senate rules relating to decision-making by standing committees and conference committee procedures relating to decision-making by conference committees be revised. Specifically, we recommend:

1) Deletion of conference chair veto powers, including fiscal chair veto power over committee reports. The fundamental principle of voting in a democracy demands equality and a prohibition against special veto powers by committee chairs. Also, conference chair veto powers are not appropriate as "conference procedures." Because these veto rules apportion power among legislators, they are more appropriately placed in Senate and House Rules, which are adopted by vote of all legislators. The fiscal chair veto power over conference committee reports is unnecessary because "past practice" and Senate Rule 19 provides the chair with adequate control over fiscal bills. "Past practice" currently operates as a rule pursuant to Senate Rule 87. In the past, whenever there was a misunderstanding or disagreement between the fiscal chair and a conference chair on a fiscal bill, the bill in question was always recommitted whenever requested by the fiscal chair.

2) The Senate's arbitrary any-committee-referral practice be replaced with assignment of bills to committees of purview. Referrals to Senate standing committees should be as described in Senate Rules, to those committees with direct jurisdiction over the subject matter of the bill.

(These two corrections: (1) & (2) above will remove the veto power of conference committee chairs; and replacing the Senate's arbitrary any-committee-referral rule with assignment of bills to committees of purview; will greatly reduce the ability of the few to rule the many.)

3) Make recommendations in your final report to the full Senate, in compliance to SR 147.

4) References to decision-making in caucuses be removed from the draft report.

5) Allow a majority of standing committee members to require a vote on a chair's decision to defer a bill.

Adoption of the five (5) recommendations above will go a long way to fixing what many of us see as the main problem in the Senate, whereby one powerful Senate Committee Chair has numerous opportunities to kill any Bill he/she doesn't like by having that certain Bill assigned inappropriately to his/her committee for the sole purpose of killing the bill. If the companion Bill passes the house he/she may get a second shot at killing the Bill when it crosses over. If or when the Bill reaches conference committee this very same senator becomes a co-chair with the power to, once again, kill the Bill by refusing to allow it to be heard. This has actually happened even in cases where the House version passed unanimously. What we have is a one-person legislature whose vote carries more weight than the entire house. **This is not democracy!**

After every election there is much moaning and speculation over the steadily declining number of voters. Could it be that those who stay home do so because they believe their votes don't count are right? No matter whom they elect, there is a senator whose vote carries more weight! **This travesty cries out for change!**

Thank you for this opportunity to voice our concern on this important matter.

The Interfaith Alliance Hawai'i

20 South Vineyard Blvd

Honolulu, HI 96734

Celebrating Diversity Confronting Intolerance

November 24, 2003

Senator Colleen Hanabusa
Chair, Senate Committee on Judiciary

Re: S. R. 147

Aloha, Honorable Chair Hanabusa, Vice Chair Chun Oakland, and Members of the Committee:

I write representing The Interfaith Alliance Hawai'i, which was launched this past year. Our group is committed to providing a positive and healing role in Hawai'i with people of faith, good will and aloha, encouraging nonviolent civic participation, facilitating community activism, and confronting religious and political extremism. We represent members from more than 30 diverse faith traditions, have a 25 member Board of Directors, and a solid network of community advisors. We feel honored that the mantle of the former Hawai'i Council of Churches was formally passed to us this past month, especially regarding human concerns and legislative affairs.

As president of The Interfaith Alliance Hawai'i, I thank Senator Hanabusa for chairing this committee in a spirit of openness and of being citizen-friendly:

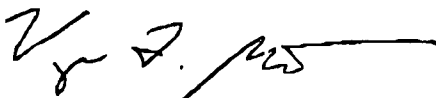
I write today to address a number of concerns which are important to our membership, and which we feel are important to our state, as we move forward:

1. We firmly believe that referral of bills to standing committees must be based upon the jurisdiction currently discribed in senate rules. To do otherwise raises public suspicion and further disengages a portion of our populace.
2. We urge the committee to recommend deletion of conference chair veto powers, including fiscal chair powers, over committee reports. Fundamental to stating we are a true democracy there is a requirement to the principle of fairness.
3. We ask that Senate Judiciary make recommendations in its final report to the full senate in compliance with SR 147.

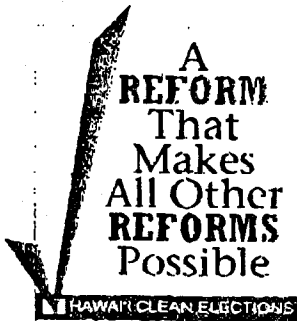
I thank you for allowing this time to share our concerns. Together, we can move forward to create the best environment possible for all people in this great land of aloha.

Blessings and peace to you.

Sincerely,



Rev. Vaughn F. Beckman, President



HAWAII CLEAN ELECTIONS COALITION

Phone 808-384-4202 / Fax 808-637-1236

<http://www.hiclean.org/>

November 24, 2003

Senator Colleen Hanabusa, Chair
Senator Suzanne Chun Oakland, Vice Chair
Senate Committee on Judiciary and Hawaiian Affairs

Re: SR 147 – In support

Aloha Chair Hanabusa, Vice Chair Chun Oakland, and Members of the Committee:

My name is Laure Dillon, and I am the executive director of the Hawaii Clean Elections Coalition. Thank you for the opportunity to offer comments on SR 147. We very much appreciate that you have held these hearings, and that you have so well addressed the concerns presented by us as citizens who endeavor to be part of the process. Thank you.

The suggestions in your draft report successfully address the concerns SR 147, as well as those brought to you by members of the community. The changes discussed by this report we respectfully urge you to adopt as your final report and to send the report to the full Senate, complying with SR 147. Please delete the reference to decision-making in caucus.

We strongly support the proposed Senate Rule amendment on bill referrals to assure assignment of bills to those committees with direct jurisdiction over the subject matter of the bill. And, if a bill is deferred, we support the ability of the standing committee members to require a vote on the chair's decision to defer the bill.

We further urge the committee to recommend deletion of veto powers of conference committee chairs, including that of the fiscal chair over committee reports. Such changes return equality to the voting process and strengthen the democratic process.

Again, we thank the chair and the committee for holding this hearing in such an inclusive manner, and to have produced a report that can greatly increase the public trust in a fair and open process in the Legislature.

Sincerely,

Laure Dillon
Executive Director

- League of Women Voters
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- The Interfaith Alliance Hawaii
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- Hawaii Green Party
-
- Advocates for Consumer Rights
-
- Kokua Council
-
- Hawaii Independent Democrats
-
- Coalition for Good Government
-
- Life of the Land
-
- Graduate Students Organization of U.H.
-
- Hawaii Pro-Democracy Initiative
-
- Hawaii Institute for Human Rights

The Rev. Daniel L. Hatch
3358 Emekona Place
Honolulu, HI 96822

Senator Colleen Hanabusa, Senate Judiciary
415 South Beretania Street, Room 214
Honolulu, HI 96813

Dear Senator Hanabusa:

I greatly appreciate your leadership and efforts to pass a "Clean Elections" Bill for Hawaii. I think this bill is vital for the future of Hawaii, and strongly endorse your efforts.

Sincerely,



The Rev. Daniel L. Hatch

November 24, 2003

Senator Colleen Hanabusa
Chair, Senate Judiciary
Senator Suzanne Chun Oakland
Vice Chair, Senate Judiciary

Re: Senate Resolution 147

Chair Hanabusa, Vice Chair Chun Oakland, and Members of the Judiciary Committee:

My name is Jerry C.L. Chang. I regret I am not the Representative Jerry L. Chang from the Big Island. Allow me to introduce myself very briefly.

I was invited to become the Vice President of External Affairs of the East-West Center in 1974. In 1980, I decided to join the United Nations as its Representative to Paraguay with the rank of an Ambassador. Then in 1988 I became the Vice President at Large of the World Vision International, a relief and development organization with projects in more than a hundred countries. In between the two assignments, I founded Hawaii Habitat for Humanity and was its first President. Before coming to Hawaii, I held a number of assignments with the United States Agency for International Development of the Department of State. As a result, I have visited about 100 countries and lived in seven. Presently, I am the Founder and President of Humanity United Globally located in Hawaii. However, I am speaking as a private citizen.

Please excuse me for taking so much time to introduce myself. I did so to express why I am so grateful and proud to be a citizen of this country for the many opportunities given me. I am a first generation American, as I was born and raised in China.

My congratulations to Chair Hanabusa and the special committee for considering S.R. 147. From my perspective, I believe it is a most important resolution when we consider ourselves as a leading country of democracy and doing everything we can to convince other countries to follow our path. As I understand it, there are two principal elements in this resolution to correct two existing conditions in the Senate.

First, when a resolution comes up now at in the Senate, it is not automatically referred to the standing committee responsible for the subject matter concerned for review. If that is the case, then why does the Senate bother to set up standing committees at all. It indicates the Senate is really controlled by a few powerful Senators. I can appreciate there could be exceptions at times, but reasons must be clearly explained.

Second, the Conference Chair and Fiscal Chair have veto powers over committee reports. Under rules of democracy, the chair's responsibility is to moderate the meetings, make sure everyone who wants to speak has the opportunity to do so, and when important issues are involved a set of rules are followed, etc. Sometimes, the chair could withhold issues to be brought up for consideration. But generally there are definite ways for members of the committee to get around that. But for a chair to have the power to veto committee reports, then why should the committee members take the time and energy to prepare such committee reports at all?

I humbly request the Senate Judiciary recommend its final report to the full senate to comply with SR 147.

With all due respect,



Jerry C.L. Chang
4924 Waa St.
Honolulu, Hawaii 96821

LIFE OF THE LAND

Ua Mau Ke Ea O Ka `Aina I Ka Pono

The Life of the Land is Perpetuated in Righteousness

76 North King Street * Suite 203 * Honolulu, Hawai`i 96817

Phone: 533-3454 * Cell: 927-1214 * email: katbrady@hotmail.com

LATE

COMMITTEE: **JUDICIARY AND HAWAIIAN AFFAIRS**
Chair: Sen. Colleen Hanabusa
Vice Chair: Sen. Suzanne Chun-Oakland

SENATE LEADERSHIP
Sen. Donna Mercado Kim, Vice President
Sen. Shan Tsutsui, Majority Caucus Leader

DATE: Monday, November 24, 2003
TIME: 2:30 PM
PLACE: Room 229
BILL NO.: Comments on SCR 147 Report
COPIES: 20 copies, please

Aloha Chair Hanabusa, Vice Chair Chun-Oakland, Senator Kim, and Senator Tsutsui!

My name is Kat Brady and I am the Assistant Executive Director of Life of the Land, Hawai'i's own environmental and community action group advocating for the people and the `aina since 1970. Our mission is to preserve and protect the life of the land through sustainable land use and energy policies and to promote open government through research, education, advocacy, and litigation.

Mahalo for tackling the serious issues in the conference committee process, which we see as a serious flaw in our democratic process.

Open government has always been, and remains today, a major issue for Life of the Land and the people we represent. A vibrant democracy demands effective participation by its informed electorate. Our decades of work at the legislature have highlighted some things that we perceive as real barriers to democracy in the conference committee process.

The old adage, "Be careful what you wish for..." holds true for some of the problems we see.

- **The USE of Microphones in the Conference Committee:** This has been a big issue for community advocates who want to be present at the discussion of bills at the last stage of the session. Yes, the conference committee does have microphones now, but legislators rarely speak into them! So, we should have refined our wish to say, "We request that the members of the conference committee speak INTO the microphones so the public can hear the discussion taking place."
- **Copies of Proposed Drafts:** Since draft proposals are circulated for discussion, we request that copies of these proposed drafts be made available to interested members of the public.
- **Full Discussion of the Measurers at Hand:** We request that discussion on a proposed measure be done in the full light of public scrutiny. We have the distinct impression that proposed drafts are circulated to committee members before the next scheduled conference committee and discussion among members has already taken place. This leaves the impression that many decisions affecting the people of Hawai'i are done behind closed doors away from the public.

- A Cost-Benefit Analysis Should Accompany all Fiscal Bills: Wouldn't it be helpful to conference committee members to have a cost-benefit analysis of all fiscal bills so they can individually assess the merits of proposed legislation? Life of the Land strongly suggests that this be considered.

We truly appreciate the spirit of the committee in addressing these most important issues to ensure an engaged and informed electorate.

Mahalo for this opportunity to testify.