

STAND. COM. REP. NO.

465

Honolulu, Hawaii

FEB 16 2007

RE: S.B. No. 1139
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committees on Education and Judiciary and Labor, to which was referred S.B. No. 1139 entitled:

"A BILL FOR AN ACT RELATING TO RANDOM DRUG TESTING,"

beg leave to report as follows:

The purpose of this measure is to ensure the health and safety of our children in public schools by requiring employees of the Department of Education to be subject to random drug testing.

Testimony in support of this measure was submitted by three individuals. Testimony in opposition of this measure was submitted by the Department of Education (DOE), the Hawaii State Teachers Association, the Drug Policy Forum of Hawaii, the Drug Policy Action Group, and one individual.

Your Committees find that substance abuse is one of the most severe problems that plagues our society today. The existence of drug abuse in the workplace poses a particularly harmful threat to the safety and security of employees, customers, and, in the case of the public schools, our children. Your Committees further find that individuals in certain positions require a higher level of scrutiny to ensure public safety and security.

Your Committees find that the safety and well being of our children is of great concern to the Legislature and should always be a priority in developing policies and legislation that affect them. Children today face many dangers, including the dangers of crime, violence, and illegal drug use. Parents and teachers play

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a huge role in influencing our youth to lead positive, productive, and drug-free lives. The exposure of our children to negative influences, particularly in the schools, is counterproductive to other home and community efforts to ensure a nurturing, safe, and drug-free environment. Your Committees are committed to providing our youth quality education in drug-free environments.

Similarly, our residents have placed their safety, liberty, economic well being, trust, and confidence in elected officials of the State. These individuals are authorized to determine public policy, including policies regarding the prohibition of and punishment for illegal drug use. Accordingly, these individuals must be highly scrutinized. Your Committees heard a related measure, Senate Bill No. 211, which addressed the need for drug testing for elected officials in Hawaii and believe that the inclusion of its provisions would be appropriate in this measure as they involve similar issues.

Your Committees entertained discussion on the potential costs to the State of conducting random drug testing of DOE employees. Although an estimate of up to \$2,000,000 was proffered by the DOE, your Committees believe that this may be an inflated cost that could be alleviated through the use of less costly and less-invasive or non-invasive tests and procedures.

Your Committees understand that constitutional issues may be raised regarding the use of random drug testing in situations where no systemic drug abuse problem currently exists. However, your Committees believe that the overriding concern regarding the health and safety of children in our public schools constitutes a compelling state interest that warrants drug testing of DOE employees, especially the teachers. Your Committees also understand that, based on testimony by the DOE, certain employees are subject to or will soon be subject to drug testing requirements provided under collective bargaining agreements. Additionally, a representative from the Hawaii State Teachers Association indicated that the issue is also currently being negotiated by that organization with the DOE. Your Committees believe that to the extent the issue is provided for through collective bargaining may be sufficient to address the concerns over those affected employees. Nonetheless, this measure should continue to proceed through the session to facilitate further discussion and to serve as a motivational factor to spur continued collective bargaining negotiations to address the issue, a fact



that, your Committees note, was acknowledged as an appropriate action by the Hawaii State Teachers Association.

Accordingly, your Committees have amended this measure by:

- (1) Inserting the provisions of Senate Bill No. 211, requiring elected officials to be tested for illegal drugs and be subject to disqualification for or forfeiture of office upon testing positive for illegal drugs;
- (2) Exempting DOE employees from the random drug testing policy if they are already subject to drug testing requirements under collective bargaining agreements; and
- (3) Making technical, nonsubstantive changes for purposes of clarity and style.

As affirmed by the records of votes of the members of your Committees on Education and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1139, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1139, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Education and
Judiciary and Labor,



CLAYTON HEE, Chair



NORMAN SAKAMOTO, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1139	EDU/JDL, WAM	2/9/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	/			
KOKUBUN, Russell S. (VC)	/			
INOUE, Lorraine R.				/
NISHIHARA, Clarence K.		/		
GABBARD, Mike	/			
TOTAL	3	1		1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Russell S. Kohl</i>				
Distribution:				
Original	Yellow	Pink		
File with Committee Report	Clerk's Office	Drafting Agency		

*Only one measure per Record of Votes