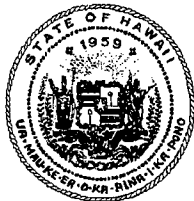


LINDA LINGLE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

CLAYTON A. FRANK
DIRECTOR

DAVID F. FESTERLING
Deputy Director
Administration

TOMMY JOHNSON
Deputy Director
Corrections

JAMES L. PROPOTNICK
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 45 SD1
RELATING TO GOVERNMENT OPERATIONS

by

Clayton A. Frank, Director
Department of Public Safety

Committee on Public Safety
Senator Will Espero, Chair
Senator Clarence K. Nishihara, Vice Chair

Thursday, February 28, 2008, 2:45 p.m.
State Capitol, Conference Room 225

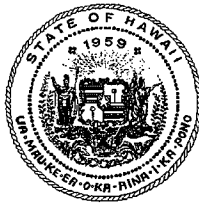
Senator Espero, Senator Nishihara, and Members of the Committee:

The Department of Public Safety strongly supports Senate Bill 45 SD 1.

This measure permits an expedited process for reappointing current members of the parole board, thus providing less disruption and loss of continuity for the day to day operations of the parole board. The changes made by this bill would not affect the Governor's authority to appoint a member to the parole board, nor the Legislature's duty to reconfirm the appointees. Since this measure accomplishes the intent of the overall statute, while simultaneously reducing administrative redundancy and cost, the department strongly supports this measure.

Thank you for the opportunity to testify on this bill.

LINDA LINGLE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
1177 ALAKEA STREET, GROUND FLOOR
Honolulu, Hawaii 96813

ALBERT TUFONO
CHAIR

DANE K. ODA
MEMBER

ROY W. REEBER
MEMBER

MAX OTANI
A/ADMINISTRATOR

No. _____

**TESTIMONY ON SENATE BILL 45, SD 1
RELATING TO GOVERNMENT OPERATIONS**

HAWAII PAROLING AUTHORITY
Albert Tufono, Chairman

Committee on Public Safety
Senator Will Espero, Chair
Senator Clarence K. Nishihara, Vice Chair

Thursday February 28, 2008; 2:45 p.m.
State Capital, Conference Room 225

Chair Espero, Vice Chair Nishihara and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports Senate Bill 45, SD 1, Relating to Government Operations.

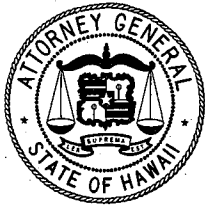
This bill, as written, provides clear directives in the appointment process of parole board members and leaves no room for misinterpretation of terms, term limits and status of current incumbents. The expedited process of reappointing current members of the parole board would relieve the Department of convening the interview panel members, interviewing potential candidates, and formulating a list of recommended candidates to the Governor. This process would also provide little disruption to the operations of the parole board even when the members' terms are expiring. The changes in this bill would not effect

the Governor's authority to appoint a member nor the Legislature's duty to confirm the

applicant.

We thank you for this opportunity to testify on this bill and ask for your support in

passing this bill.



TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

ON THE FOLLOWING MEASURE:

S.B. NO. ,

BEFORE THE:

SENATE COMMITTEE ON PUBLIC SAFETY

DATE: Thursday, February , 2008 **TIME:** PM

LOCATION: State Capitol Room
Deliver to: , Room , copies

TESTIFIER(S): ,

Chair Espero and Members of the Committee:

The Attorney General supports passage of this bill with the amendments suggested below.

This bill amends section 353-61, Hawaii Revised Statutes, to eliminate the prerequisite that members of the Hawaii Paroling Authority be re-nominated by the panel composed of the Chief Justice of the Hawaii Supreme Court, the Director of the Department of Public Safety, the President of the Hawaii Criminal Justice Association, the President of the Hawaii State Bar Association, a representative designated by the Interfaith Alliance of Hawaii, a member of the public appointed by the Governor, and the President of the Hawaii chapter of the National Association of Social Workers in order to be considered for appointment to a subsequent consecutive term as the chairperson or a member of the Authority. It also deems the current chairperson and two members of the Authority qualified to be nominated, and confirmed and authorized to serve as members of the Authority if they were nominated by the nominating panel before their initial appointments, confirmed by the Senate to serve after June 30, 2006, and not otherwise disqualified from serving by the two consecutive terms or eight consecutive years limit in section 26-34, Hawaii Revised Statutes.

If this bill is enacted in its current form, section 2 of the bill would allow the current chairperson of the Authority to serve a second term effective July 1, 2008, without being nominated by the section 353-61 nominating panel, if the Governor re-appoints him and he is confirmed by the Senate before the Senate adjourns sine die on May 1st, or he holds over through and into the next two regular sessions of the Legislature, and the Governor re-appoints and the Senate confirms him during or immediately after the legislative session after his re-appointment.

Similarly, if the bill is enacted, sections 2 and 3 of the bill will authorize the current member of the Authority who was confirmed to his first full term by the Senate during the 2007 regular session, to serve as a duly authorized member of the Authority until June 30, 2011, without having to be reappointed, even though he was not nominated by the section 353-61 nominating panel prior to his 2007 confirmation. Previously, this individual was nominated by a panel and appointed by the Governor before his confirmation during the 2006 session for a term that ran to June 30, 2007.

The following revisions must be made to the bill, however, before the second current member of the Authority may continue serving as a member of the Authority until he is otherwise disqualified by section 26-34's eight consecutive years limit:

1. Change "June 30, 2006," to "June 30, 2005," at page 4, line 6; and
2. Specify the bill's effective date as "April 30, 2008" instead of "upon its approval."

This individual was confirmed during the 2004 session after being nominated by a panel and appointed by the Governor, for a term that ran to June 30, 2006. However, the above changes must be made because, although he was also confirmed to his full term as a member of the Authority by the Senate during the 2006 regular session, he was not nominated by the section 353-61 nominating panel before the Governor re-appointed him to serve as a member of the Authority, his

re-appointment was confirmed by the Senate before June 30, 2006, and he is authorized to serve as a holdover member of the Authority pursuant to section 26-34(b) only through the last day of this regular session, May 1, 2008.¹ Unless both the "June 30, 2006," confirmation date in section 3 is changed to "June 30, 2005," and the bill's effective date is either changed to "April 30, 2008" or the measure is passed by the Legislature and approved by the Governor before May 1st, he will not be "deemed" qualified to serve as a member of the Authority after May 1st, as his tenure as a holdover member will have expired and he will not "currently be serving as a member" of the Authority when the bill takes effect.

In addition, to further improve the bill, we suggest the following:

1. Delete "on the effective date of this Act" at page 3, lines 6-7, and lines 20-21, as redundant to "currently" which appears at the beginning of each sentence at page 3, lines 5 and 19;
2. Delete "or interim" at page 3, line 3 as an interim appointment would typically refer to someone who has not already been serving in the respective position and therefore who would not have previously been nominated by a panel.

Thank you for this opportunity to testify on this bill.

¹The members of the Authority who were confirmed by the Senate during the 2006 and 2007 session qualify as de jure holdover members under subsection (b) of section 26-34, Hawaii Revised Statutes, through the end of the 2008 and 2009 regular legislative sessions, respectively, and, under Hawaii law, none of their actions as members of the Authority are subject to challenge as invalid. State v. Villeza, 85 Hawai'i 258, 271 (1997).