

STAND. COM. REP. NO.

2713

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2212
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2212 entitled:

"A BILL FOR AN ACT RELATING TO HAWAIIAN HOMES COMMISSION ACT,
1920, AS AMENDED,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal the
congressional consent requirement for amendments made to the
provision relating to community based governance on Hawaiian home
lands.

Your Committee received testimony in support of this measure
from the Council for Native Hawaiian Advancement, the Waianae
Valley Homestead Community Association, and two private
individuals. Testimony in opposition to this measure was
submitted by two private individuals. The Department of the
Attorney General submitted comments.

Your Committee finds that this measure allows the Department
of Hawaiian Home Lands and the homestead associations to implement
the partnerships originally encouraged and intended by the
Legislature without congressional consent. Act 302, Session Laws
of Hawaii 2001, amended the Hawaiian Homes Commission Act, 1920,
as amended, to include two new sections, one of which relate to
community based governance on Hawaiian home lands. The purpose of
Act 302 is to promote increased self-governance by Hawaiian
homestead community organizations over the affairs of their
distinct native communities on Hawaiian home lands. However, Act

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302 is effective only after it is approved by Congress, which has not yet occurred.

The Department of the Attorney General indicated to your Committee that simply repealing the congressional approval prerequisite would not effectively lift the congressional consent requirement under Act 302, Session Laws of Hawaii 2001. Additionally, the Department of Attorney General indicated that to effectuate the legislative amendment without congressional approval, the amendment must fall within certain exceptions stated in the Admission Act.

Your Committee has amended this measure by:

- (1) Deleting its contents and replacing it with language proposed by the Department of the Attorney General that:
 - (A) Enacts community based governance as a new section to the Hawaiian Homes Commission Act as intended by Act 302, Session Laws of Hawaii 2001; and
 - (B) Includes provisions that would exempt the amendment from the federal consent requirement; and
- (2) Inserting an effective date of July 1, 2050, to ensure further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2212, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2212, S.D. 1.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,

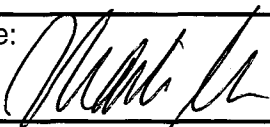
A handwritten signature in black ink, appearing to read "Clayton Hee", written over a horizontal line.

CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2212	Committee Referral: HWN/PGM, JDL	Date: 2/24/12		
<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)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les	✓			
SLOM, Sam		✓		
TOTAL	3	1	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes