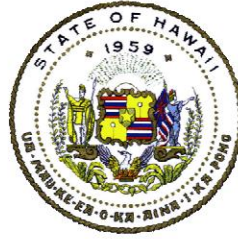


NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**

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Max Otani  
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Deputy Director  
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No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1176, HOUSE DRAFT 1  
RELATING TO THE HAWAII PAROLING AUTHORITY

By

Ted Sakai, Director  
Department of Public Safety

House Committee on Judiciary  
Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice Chair

Tuesday, April 2, 2013, 2:00 PM  
State Capitol, Room 325

Chair Rhoads, Vice Chair Har and Members of the Committee:

The Department of Public Safety **strongly supports** Senate Bill 1176, House Draft 1, which 1) promotes the timely review of candidates for the Hawaii Paroling Authority (HPA), and 2) establishes the quorum required to take action on matters before the Authority.

This measure allows designees be appointed to the panel that reviews applicants for the paroling authority and nominates members for the Governor's consideration. The purpose of this measure is to ensure the timely nomination of new members.

The paroling authority nomination panel includes the Chief Justice of the Hawaii Supreme Court, the Director of Public Safety, the President of the Bar Association of Hawaii, and the President of the Hawaii Chapter of the National Social Workers Association. The panel is responsible for vetting the list of applicants, conducting interviews, and submitting not less than three names per vacancy for the Governor's consideration. This work averages three to five full days of meetings, a schedule that is often impractical for persons in high level positions. The proposed amendments would allow the Chief Justice, Director, and President to appoint designees to represent them.

We are also requesting a most important amendment related to the Justice Reinvestment Initiative bill that was passed last session. Section 6 of Act 139, Session Laws of Hawaii 2012, increases the members of the Hawaii Paroling Authority (HPA) from a chairperson and two part-time members to a chairperson and four part-time members. This section, as introduced by the Administration, was intended to allow part-time members to rotate duties, requiring three members be present to act on matters before the parole board. The purpose of this section was to ensure a panel of three members was always available while other members were ill, on vacation, family leave, etc. It also allows for some members to be reviewing cases while others are hearing other cases.

Section 92-12, HRS, defines a quorum as "all the members to which the board or commission is entitled" unless it is otherwise specified in law. The proposed amendment allows for a panel of three members to convene a hearing, with all matters acted upon by the majority of those present. As some HPA members have previously been employed in the criminal justice system, it is not unusual for conflicts of interest in a given case to arise. Convening panels of three allows HPA to avoid conflicts requiring recusal of a member by not scheduling a member having a conflict when such a situation is identified beforehand.

On rare occasions, a member will not be aware prior to the hearing of a potential conflict of interest. This measure also allows for two members to continue to proceed with a hearing should a third member of the panel determine immediately preceding or during the course of a hearing that there is a conflict of interest that requires recusal.

This bill also would require that the HPA make public the results of parole decisions within thirty days after the decisions are rendered. We support his amendment.

We urge your favorable consideration of this bill. Thank you for the opportunity to testify.

NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**HAWAII PAROLING AUTHORITY**  
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**FITUINA F. TUA**  
MEMBERS

**TOMMY JOHNSON**  
ADMINISTRATOR

No. \_\_\_\_\_

TESTIMONY ON SENATE BILL 1176, SD1, HD1  
RELATING TO THE HAWAII PAROLING AUTHORITY

BY

Bert Y. Matsuoka, Chairman  
Hawaii Paroling Authority

House Committee on the Judiciary  
Representative Karl Rhoads, Chair  
Representative Sharon E. Har, Vice Chair

Tuesday, April 2, 2013; 2:00 p.m.  
State Capitol, Room 325

Chair Rhoads, Vice Chair Har, and Members of the Committee:

The Hawaii Paroling Authority (HPA) supports Senate Bill 1176, SD1, HD1, relating to the HPA, which allows designees to be appointed to the panel that reviews applicants for the paroling authority and nominates members for the Governor's consideration. The primary purpose of this measure is to ensure the timely nomination of new members when vacancies occur. This measure also provides for the release of parole hearing decisions no more than thirty days following hearings.

The HPA appreciates the legislature's interest in the release of parole hearing decisions, but the release of such information can be accomplished monthly on a voluntary basis without the need to enact Section 2(b)(2) of this measure.

In addition, the HPA respectfully requests the following amendments to Section 2(b)(6) [~~if it is determined immediately preceding or during the course of a hearing that a sitting panel member must be recused due to a conflict of interest~~] Upon approval by the Chair, for good cause, including recusal and/or unanticipated absence, the panel may proceed with two members; and.....

Thank you for the opportunity to provide testimony on this measure.

April 1, 2013

To: Rep. Karl Rhoads, Chair and Rep. Sharon Har, Vice Chair and Members of the House Judiciary Committee

From: Annelle C. Amaral, Member, Hawai'i Parole Board

Re: Testimony in Support of SB 1176, SD1, HD1 Relating to the Hawai'i Paroling Authority

Aloha Mr. Chairman and members of the House Judiciary Committee. I am Annelle Amaral, a member of the Hawai'i Parole Board and am here to testify in support of SB 1176 SD1 HD1 which allows designees to be appointed to the panel that reviews applicants for the paroling authority and nominates members for the Governor's consideration. It further amends Section 353-62 (b) (2) by requiring the release of parole decisions no later than thirty days after the hearing.

In addition, the bill amends Section 353-62 further by assuring that the parole panel shall consist of at least three members.

We support all of the above amendment, however we ask for further clarification to the final amendment regarding the quorum for the parole panel. While the amendment provides that one reason for recusal can be a conflict of interest, we ask also that the language be expanded to include good cause and/or unanticipated absence. We agree that two members remaining shall serve as a quorum.

The Parole Board holds hearings every working day. We visit Hawai'i island and Maui at least once a month. We go to Kaua'i every other month. We go to all of the prisons on Oahu, Halawa, OCCC, Women's, Wai'awa, as well as the Federal Detention Center. And conduct the hearings for our prisoners residing on the continent, via video feed from HPA. We also conduct administrative hearings on a monthly basis. In total, we see approx. 360 prisoners a month for various hearings.

Although the Legislature provided for two additional members to be seated on the Parole Board, the intention was to always keep the Parole Panel to three members in total. The additional members were intended to provide substitutions so that no one member must sit all five days.

However, once the panel of three is seated, we may find that a member has a conflict of interest, as the member may have adjudicated the trial of the prisoner or may have acted as counsel for the prisoner or may have been a federal probation officer for the prisoner. There may be occasions also where a panel member is simply ill or unable to attend the hearing at the last minute, making it impossible to replace the member. It is on these occasions, and for whatever reason, that the board should be allowed to continue the hearing with two members.

It is especially sensitive when the parole board is on a neighbor island and timeliness is critical to assure due process.

We have provided the specific language for the proposed amendment in the testimony of the HPA. We hope that you will support this additional amendment and will move forward SB 1176 with the additional amendments. I stand ready to answer any questions you may have for me. Mahalo.