

STAND. COM. REP. NO. 2725

Honolulu, Hawaii

MAR 04 2016

RE: S.B. No. 2420

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 2420 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI, SECTION 3, OF THE CONSTITUTION OF THE STATE OF HAWAII TO AMEND THE TIMEFRAME TO RENEW THE TERM OF OFFICE OF A JUSTICE OR JUDGE AND REQUIRE CONSENT OF THE SENATE FOR A JUSTICE OR JUDGE TO RENEW A TERM OF OFFICE,"

begs leave to report as follows:

The purpose and intent of this measure is to propose a constitutional amendment to amend the timeframe to renew the term of office of a justice or judge and require consent of the Senate for a justice or judge to renew a term of office.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from the Judiciary; Office of the Public Defender; Hawaii State Bar Association; West Hawaii Bar Association; Kauai Bar Association; Hawai'i County Bar Association; Hawai'i Women Lawyers; American Judicature Society; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; William S. Richardson School of Law Student Bar Association; and twenty-eight individuals. Your Committee received comments on this measure from fifteen individuals.

Your Committee finds that the Hawaii State Constitution requires every justice or judge to petition the Judicial Selection Commission to be retained in office. Retention proceedings, like all of the Judicial Selection Commission's proceedings, are kept

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secret by the Commission and all information considered by the Commission are not disclosed. If the Judicial Selection Commission determines that the justice or judge should be retained, the Judicial Selection Commission is authorized by the state constitution to renew the justice's or judge's term. Unlike the original appointment of a justice or judge, Senate consent is not required for a justice's or judge's term renewal. Therefore, only the Senate confirmation process of a justice's or judge's initial appointment is open to public scrutiny.

This measure proposes a constitutional amendment to authorize the Senate, rather than the Judicial Selection Commission, to renew a justice's or judge's term while retaining the Judicial Selection Commission's constitutionally mandated responsibility to determine whether a justice or judge should be retained in office and providing the Judicial Selection Commission six months to make its determination then immediately provide written notice to the Senate of an approval for retention. The Senate would need to hold a public hearing within ninety days; otherwise, the Judicial Selection Commission's determination would take effect.

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. 2420 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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



GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB 2420	Committee Referral: JDL	Date: 2/10/16		
<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 checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)		✓		
GABBARD, Mike		✓		
██████████				
KIM, Donna Mercado	✓			
THIELEN, Laura H.			✓	
SLOM, Sam				✓
TOTAL	2	2	1	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