

Honolulu, Hawaii

APR 04 2017

RE: H.B. No. 1033
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1033, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ADMINISTRATIVE PROCEDURE,"

begs leave to report as follows:

The purpose and intent of this measure is to allow state and
county agencies to participate in the administrative procedures
process under chapter 91, Hawaii Revised Statutes, by including
"agencies" within the definition of "persons" in section 91-1,
Hawaii Revised Statutes.

Your Committee received testimony in support of this measure
from the Department of the Attorney General, Office of Planning,
and Land Use Commission. Your Committee received testimony in
opposition to this measure from Life of the Land.

Your Committee finds that under the Hawaii Administrative
Procedure Act, state and county agencies are included under the
definition of "party" but not under the definition of "persons",
which effectively restricts state and county agencies from full
participation in the administrative process, including the
authority to:

- (1) Submit data, views, or arguments relating to a proposed
amendment or repeal of any administrative rule;



- (2) Petition another agency that is requesting the adoption, amendment, or repeal of any administrative rule;
- (3) Pursue a judicial declaration regarding the validity of any administrative rule; and
- (4) Petition another agency for a declaratory order regarding the applicability of any statutory provision or any rule or order of the agency.

Your Committee further finds that state and county agencies often have the same needs as individuals, businesses, and public or private organizations to obtain clarity on statutes or administrative rules. By increasing the participation of state and county agencies in the administrative procedures process, this measure enhances the overall administrative procedures process.

Your Committee has amended this measure by:

- (1) Inserting an effective date of January 7, 2059, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 H.B. No. 1033, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1033, H.D. 1, S.D. 1, 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



