

STAND. COM. REP. NO.

3189

Honolulu, Hawaii

MAR 23 2018

RE: H.B. No. 2368
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committees on Housing and Labor, to which was referred
H.B. No. 2368, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SERVICES PERFORMED BY CIVIL
SERVICE EMPLOYEES,"

beg leave to report as follows:

The purpose and intent of this measure is to appropriate
funds for permanent civil service positions and equipment for the
Hawaii Public Housing Authority to provide services historically
and customarily performed by civil service employees in connection
with refuse collection.

Your Committees received testimony in support of this measure
from the Department of Human Resources Development; Hawaii Public
Housing Authority; and United Public Workers, AFSCME Local 646,
AFL-CIO. Your Committees received comments on this measure from
the Grassroot Institute of Hawaii.

Your Committees find that in 1997, the Hawaii Supreme Court
ruled in *Konno v. County of Hawaii* that the County of Hawai'i
violated civil service laws and merit principles when the county
hired private contractors to perform landfill operations work.
The court ruled that state civil service laws allowed only civil
service employees to perform work historically and customarily
done by civil service employees. As a result of the repeal of



part II of Act 90, Session Laws of Hawaii 2001, which had allowed the State to contract for services historically and customarily performed by civil service employees if equivalent or better services could be provided at lower cost, an agreement was reached between the United Public Workers and the State. This agreement reflected the State's commitment to comply with the *Konno* decision and recognized the State's duty to provide services to the public.

However, your Committees further find that the State does not have a sufficient number of civil service positions and employees to perform services historically and customarily performed by United Public Workers-type employees, and state agencies have resorted to contracting for these services despite the *Konno* decision. It is estimated that the State will need an additional 598 permanent positions and approximately \$75,571,516 to fill those positions and purchase associated equipment with general and non-general funds to provide necessary services to the public through civil service employees rather than through private contractors. Accordingly, this measure is an effort to address this shortfall by appropriating funds for permanent civil service positions and equipment in connection with refuse collection for the Hawaii Public Housing Authority.

Your Committees note that the 598 permanent positions identified only includes United Public Workers-type employees and does not account for a statewide total. Your Committees further note that the State lacks a strategic plan for transitioning all contracted employees who perform work historically and customarily done by civil service employees to civil service positions. Without a strategic plan, your Committees have concerns regarding the availability of state financial resources to transition all contracted employees to civil service employees in order to comply with *Konno*.

Accordingly, your Committees have amended this measure by:

- (1) Requiring the Department of Human Resources Development to develop a multi-year strategic plan to transition contracted positions that are historically and customarily performed by civil service employees to civil service positions in order to comply with the decision under *Konno v. County of Hawaii* and submit a



report to the Legislature prior to the Regular Session of 2019;

- (2) Requiring the Hawaii Public Housing Authority to fill all twenty-seven permanent civil service positions and purchase the necessary equipment in connection with refuse collection by July 1, 2020; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Housing and Labor that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2368, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2368, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Housing and
Labor,



JILL N. TOKUDA, Chair



WILL ESPERO, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

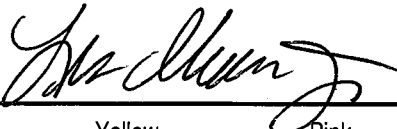
Record of Votes
Committee on Housing
HOU

Bill / Resolution No.:* HB 2368 HD1	Committee Referral: HOU/LBR, WAM	Date: 3/20/18		
<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
ESPERO, Will (C)	✓			
HARIMOTO, Breene (VC)				✓
GREEN, Josh	✓			
KAHELE, Kaiali'i				✓
NISHIHARA, Clarence K.	✓			
TOTAL	3	0	0	2
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

The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Labor
LBR

Bill / Resolution No.:* <i>HB2368, HDI</i>	Committee Referral: <i>HOU/LBR, WAM</i>	Date: <i>3/20/18</i>		
<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
TOKUDA, Jill N. (C)	✓			
ENGLISH, J. Kalani (VC)				✓
CHANG, Stanley	✓			
IHARA, Jr., Les	✓			
TANIGUCHI, Brian T.	✓			
TOTAL	<i>4</i>	<i>0</i>	<i>0</i>	<i>1</i>
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				

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