

Honolulu, Hawaii

MAR 20 2019

RE: H.B. No. 1307

S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred H.B. No. 1307 entitled:

"A BILL FOR AN ACT RELATING TO AN OFFICE OF ADMINISTRATIVE HEARINGS,"

begs leave to report as follows:

The purpose and intent of this measure is to require the Legislative Reference Bureau to:

- (1) Conduct a study on establishing a state central hearing agency, to be known as the Office of Administrative Hearings; and
- (2) Submit a report of its findings and recommendations to the Legislature.

Your Committee received comments on this measure from the Legislative Reference Bureau.

Your Committee finds that in many jurisdictions, administrative adjudications take place within a single agency that combines regulatory, enforcement, prosecutorial, and adjudicatory authority. Your Committee believes that this combination of functions creates a potential conflict of interest and may also compromise the integrity of administrative adjudications.



Your Committee also finds that in certain jurisdictions, the conflict of interest inherent in the same agency acting as both prosecutor and judge has led to the establishment of state central hearing agencies, in which an independent administrative law judge, who is completely independent of the agency prosecutorial functions, presides over the administrative litigation. Hawaii does not have a centralized office of administrative hearings and your Committee finds that further examination into the establishment of such an office is necessary.

Your Committee has heard the testimony by the Legislative Reference Bureau, raising concerns that this measure, as drafted, requires the Bureau to compile, review, and analyze a considerable amount of data already in the hands of the relevant state departments and agencies but does not require the potentially affected departments and agencies to provide this data to the Bureau. Your Committee understands these concerns and concludes that amendments to this measure are necessary.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying the contents of the report that must be completed by the Legislative Reference Bureau and submitted to the Legislature, including:
  - (A) Requiring all state departments and agencies that conduct or delegate contested case hearings to provide certain statistical, non-confidential data to the Bureau by August 1, 2019, rather than requiring the Bureau to independently compile and determine this information; and
  - (B) Requiring the Bureau to research whether other jurisdictions have centralized administrative hearings offices, and if so, how those offices are run by the respective jurisdictions; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

This amended measure will require state departments and agencies with contested case hearings to provide statistical

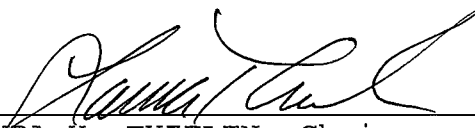


information to the Legislative Reference Bureau to facilitate the Legislative Reference Bureau's research, in hopes of establishing a centralized office of administrative hearings that will improve the integrity of administrative adjudications in Hawaii.

Your Committee notes that this amended measure does not require state departments and agencies to provide confidential information on particular case hearings but instead is requesting statistical cumulative numbers so as to facilitate the Legislative Reference Bureau's research.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1307, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1307, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Government  
Operations,




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LAURA H. THIELEN, Chair



The Senate  
 Thirtieth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Government Operations**  
**GVO**

Bill / Resolution No.:* <b>HB1307</b>	Committee Referral: <b>GVO, JDC/WAM</b>	Date: <b>3/12/2019</b>		
<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
THIELEN, Laura H. (C)	✓			
INOUE, Lorraine R. (VC)	✓			
BAKER, Rosalyn H.	✓			
KANUHA, Dru Mamo	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes