

Honolulu, Hawaii

FEB 13 2019

RE: S.B. No. 144
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 Judiciary, to which was referred S.B. No. 144 entitled:

"A BILL FOR AN ACT RELATING TO LOBBYISTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Remove the premeditated intent element when filing any statement or report under the lobbyist law; and
- (2) Allow the State Ethics Commission to assess an administrative fine or restitution, or both, when violations of the lobbyist law occur.

Your Committee received testimony in support of this measure from the Hawai'i State Ethics Commission.

Your Committee finds that a requirement to prove that a wrongful action was taken willfully is a required element of some criminal offenses, but is out of place in administrative violations. Your Committee further finds that, without a *mens rea* element of some kind, persons could be penalized for violations that occur without their knowledge, or are the result of unavoidable human error. Your Committee additionally finds that a requirement to prove that a violation was the result of negligence is an appropriate standard for violations of the lobbyist law.



Accordingly, your Committee has amended this measure by:

- (1) Removing restrictions on access to transcripts from public contested hearings;
- (2) Changing the standard to be subject to penalty for failing to file a statement or filing a statement containing false or misleading information or omission of facts from willfulness to negligence; and
- (3) 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 that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 144, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 144, S.D. 1, and be referred to your Committee on Ways and Means.

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



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

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|--|--|------------------------|----------|----------|
| Bill / Resolution No.:* SB 144 | Committee Referral: JDC, WAM | Date: 2/7/19 | | |
| <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 |
| RHOADS, Karl (C) | ✓ | | | |
| WAKAI, Glenn (VC) | ✓ | | | |
| GABBARD, Mike | ✓ | | | |
| KIM, Donna Mercado | ✓ | | | |
| FEVELLA, Kurt | | | | ✓ |
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| TOTAL | 4 | 0 | 0 | 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