

STAND. COM. REP. NO. 2749

Honolulu, Hawaii

FEB 14 2020

RE: S.B. No. 42
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred
S.B. No. 42, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HAWAIIAN AFFAIRS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit the
Attorney General from investigating nonprofit organizations for
exercising their constitutional right to free speech and assembly
or practicing native Hawaiian traditional and customary rights
expressly protected under article XII, section 7, of the Hawaii
State Constitution, with exceptions.

Your Committee received testimony in support of this measure
from KAHEA: The Hawaiian-Environmental Alliance, Pono Hawai'i
Initiative, Democratic Socialists of Honolulu, Ka Lāhui Hawai'i
Political Action Committee, Hawai'i SEED, American Civil Liberties
of Hawai'i, Young Progressives Demanding Action, Kūpuna for the
Mo'opuna, Mauna Kea Anaina Hou, Kai Palaoa, Ka Lāhui Hawai'i
Political Action Committee, and ninety-nine individuals. Your
Committee received testimony in opposition to this measure from
the Department of the Attorney General and forty-one individuals.
Your Committee received comments on this measure from the Hawai'i
Alliance of Nonprofit Organizations and four individuals.

Your Committee finds that the constitutional right to free
speech and assembly extends to nonprofit organizations. Your



Committee further finds that nonprofits may also promote constitutionally established rights regarding traditional Hawaiian customs and practices. These rights established by article XII, section 7, of the Hawaii State Constitution are no less worthy of protection and preservation as the rights to free speech and to assemble for the purpose of non-violent civil disobedience. Accordingly, this measure allows nonprofit organizations to freely express their constitutional rights without fear of being investigated under certain circumstances.

Your Committee has amended this measure by:

- (1) Incorporating changes by Ken Lawson, a professor at the University of Hawaii, that amends section 28-2.5(a), Hawaii Revised Statutes, with a proviso stating that no investigation shall be conducted in connection with and under circumstances during a period of time in which it is clear that the Attorney General's goals are conflicted with native Hawaiian rights protected by article XII, section 7, of the Hawaii State Constitution and individuals are exercising rights by nonviolent civil disobedience that are protected and granted under the Constitution or state constitution; 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 42, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 42, S.D. 2, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Hawaiian Affairs,



MAILE S.L. SHIMABUKURO, Chair



