



The Judiciary, State of Hawai'i

Testimony to the House Committee on Finance

Representative Sylvia Luke , Chair
Representative Ty J.K. Cullen, Vice Chair

Wednesday, February 26, 2020, 12:00 p.m.
State Capitol, Conference Room 308

by

Rodney A. Maile
Administrative Director of the Courts

Bill No. and Title: House Bill No. 2549, Relating to Constitutional Amendments.

Purpose: Requires the language and meaning of any proposed constitutional amendment and ratification question to be simple, concise, and direct. Allows the presiding officers of the Legislature to request a written opinion of the Supreme Court regarding the legality of a proposed amendment to the Hawai'i State Constitution and the corresponding constitutional ratification question. Requires the court to provide a written opinion within 48 hours of receipt of the request. Requires, for any written opinion by the court that invalidates a constitutional ratification question, a detailed and specific explanation of the reasons for this opinion.

Judiciary's Position:

Due to the significant constitutional issues implicated by this proposal, it is inappropriate for the Judiciary to take a position on this proposed legislation. We were unable to locate provisions in other states identical to that proposed in House Bill No. 2549. It appears about ten states have provisions pertaining to advisory opinions requested by other branches of government. Concerns expressed regarding those provisions include those arising from the separation of powers doctrine and the quality of opinions that must be rendered in short time frames.

Thank you for the opportunity to testify on this measure.

Statement Before The
HOUSE COMMITTEE ON FINANCE
Wednesday, February 26, 2020
12:00 PM
State Capitol, Conference Room 308

in consideration of
HB 2549
RELATING TO CONSTITUTIONAL AMENDMENTS.

Chair LUKE, Vice Chair CULLEN, and Members of the House Finance Committee

Common Cause Hawaii comments on HB 2549, which (1) requires the language and meaning of any proposed constitutional amendment and ratification question to be simple, concise, and direct, (2) allows the presiding officers of the Legislature to request a written opinion of the Supreme Court regarding the legality of a proposed amendment to the Hawaii State Constitution and the corresponding constitutional ratification question, (3) requires the court to provide a written opinion within 48 hours of receipt of the request, (4) requires, for any written opinion by the court that invalidates a constitutional ratification question, a detailed and specific explanation of the reasons for this opinion, and (5) prohibits any appeal of a written opinion.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through a fair, impartial, and independent judiciary. Fair courts mean equal access to the courts.

HB 2549 provides that “any decision established in a written opinion rendered pursuant to this paragraph shall not be appealable.” Pg. 4, lines 15-17. A person’s right to due process and his/her day in court is a central part of democracy. Limiting appeals is contrary to our democratic process.

Thank you for the opportunity to comment on HB 2549. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,
Sandy Ma
Executive Director, Common Cause Hawaii