

STAND. COM. REP. NO. 1258

Honolulu, Hawaii

MAR 25 2021

RE: H.B. No. 930
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Labor, Culture and the Arts, to which was referred H.B. No. 930, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMPLOYEES' RETIREMENT SYSTEM INVESTMENTS,"

begs leave to report as follows:

The purpose and intent of this measure is to amend section 88-103, Hawaii Revised Statutes, to exempt the Employees' Retirement System (ERS) from disclosing certain types of alternative investment fund information, the disclosure of which would likely put the ERS at a competitive disadvantage, pursuant to the Uniform Information Practices Act (Modified), codified at chapter 92F, Hawaii Revised Statutes (UIPA).

Your Committee received testimony in support of this measure from the Employees' Retirement System Board of Trustees. Your Committee received testimony in opposition to this measure from The Civil Beat Law Center for the Public Interest, Society of Professional Journalists Hawaii Chapter, and UNITE HERE Local 5. Your Committee received comments on this measure from the Office of Information Practices.

Your Committee finds that the ERS engages in diversified investment, including high-yield private alternative investment funds, to address its \$14.6 million unfunded liability and other



financial needs. Due diligence into such investments requires the ERS to invest time and money in acquiring and analyzing detailed proprietary and confidential information regarding the projected performance of each fund. Under current law, information held by the ERS pertaining to such proprietary or confidential information is not explicitly exempted from disclosure under the UIPA. Your Committee further finds that based on the potential risk of the ERS disclosing or being required to disclose proprietary and confidential information pertaining to its portfolio, some high-performing funds have been deterred from allowing the ERS to invest with them. Public disclosure of proprietary and confidential information will result in the ERS being precluded from investing in certain high-yield investment opportunities.

Your Committee acknowledges the concerns of The Civil Beat Law Center for the Public Interest and its request to revise the language to clarify that information that is currently subject to disclosure under the UIPA and other laws and is not exempted from disclosure under this measure remains subject to disclosure. Your Committee also believes that it is more appropriate to have provisions pertaining to disclosure of information by the ERS in section 88-103.5, Hawaii Revised Statutes, titled "Disclosure of information", rather than section 88-103, titled "Records".

Your Committee notes that the companion to this measure, S.B. No. 1084, S.D. 1, is a substantially similar measure which was previously passed by your Committee. Your Committee finds that the language in S.B. No. 1084, S.D. 1, is preferable because it is more concise, as pointed out by the ERS; addresses the concern raised by The Civil Beat Law Center for the Public Interest; and amends section 88-103.5, Hawaii Revised Statutes, to include the provisions pertaining to disclosure of information by the ERS.

Accordingly, your Committee has amended this measure by:

- (1) Deleting its contents and inserting the contents of S.B. No. 1084, S.D.1; 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 Labor, Culture and the Arts that is attached to this



report, your Committee is in accord with the intent and purpose of H.B. No. 930, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 930, H.D. 1, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor, Culture and
the Arts,


BRIAN T. TANIGUCHI, Chair



