

Honolulu, Hawaii

APR 22 2021

RE: S.B. No. 639
S.D. 1
H.D. 1
C.D. 1

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

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 639, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COURTS OF APPEAL,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Prohibit courts of appeal from affirming, modifying, reversing, or vacating a matter on grounds other than those raised by the parties to the proceeding, unless the parties are provided the opportunity to brief the court; and
- (2) Require a rehearing if the courts fail to afford the opportunity for parties to submit supplemental briefing upon timely petition by any party.



Your Committee on Conference finds that when a court decides a case on grounds not raised by the parties, it departs from the principle of party presentation and risks abusing its discretion. Your Committee on Conference further finds that on multiple occasions, the Hawaii Supreme Court has reiterated a party's right to discuss and explore its rights, claims, and defenses through a colloquy. This measure will ensure due process during the appeals process and permit parties, rather than the appellate court, to litigate their cases.

Your Committee on Conference has amended this measure by inserting an effective date of September 1, 2021.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 639, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 639, S.D. 1, H.D. 1, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE



SCOT Z. MATHYOSHI
Chair

ON THE PART OF THE SENATE



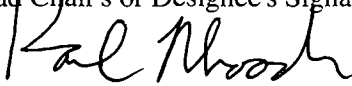
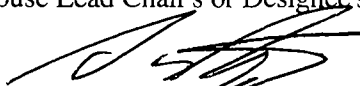
KARL RHOADS
Chair



Hawai'i State Legislature

CCR 73

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 639, SD 1, HD 1					Date/Time: 4/22/21 2:06 pm				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
RHOADS, Karl, Chr.	✓				MATAYOSHI, Scot Z., Chr.	✓			
KEOHOKALOPE, Jarrett	✓				TODD, Chris	✓			
FEVELLA, Kurt	✓				WARD, Gene	✓			
TOTAL	3	0	0	0	TOTAL	3	0	0	0
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution:									
Original <i>File with Conference Committee Report</i>			Yellow <i>House Clerk's Office</i>		Pink <i>Senate Clerk's Office</i>		Goldenrod <i>Drafting Agency</i>		