

STAND. COM. REP. NO.

16

Honolulu, Hawaii

FEB 05 2021

RE: S.B. No. 211

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 Hawaiian Affairs, to which was referred
S.B. No. 211 entitled:

"A BILL FOR AN ACT RELATING TO HAWAIIAN AS AN OFFICIAL
LANGUAGE OF THE STATE OF HAWAII,"

begs leave to report as follows:

The purpose and intent of this measure is to require that the
Hawaiian language version of a law be held binding if the law in
question was originally drafted in Hawaiian and then translated
into English.

Your Committee received testimony in support of this measure
from the Office of Hawaiian Affairs and eight individuals. Your
Committee received testimony in opposition to this measure from
the Center for Hawaiian Sovereignty Studies. Your Committee
received comments on this measure from the Office of the Attorney
General.

Your Committee finds that the Hawaiian language (olelo
Hawaii) is the native language and speech of Hawaii. Beginning in
1846, the Kingdom of Hawaii's legislature declared that all laws
enacted were to be published in both Hawaiian and English.
However, by 1850, English had become the language of business,
diplomacy, and the government, leading to disputes between the use
of languages in Hawaii's laws. In multiple court cases, the
Hawaii Supreme Court has upheld the supremacy of Hawaiian language



as the governing law. In *Hardy v. Ruggles*, the Hawaii Supreme Court held that "where there is a radical and irreconcilable difference between the English and Hawaiian language, the latter must govern, because it is the language of the country." The Kingdom of Hawaii and Territory of Hawaii published all their laws both in Hawaiian and English until 1943 when the practice of publishing laws in Hawaiian was abolished by statute.

Your Committee further finds that the Hawaii State Constitutional Convention of 1978 added Hawaiian as an official language to the State Constitution to "give full recognition and honor to the rich cultural inheritance that Hawaiians have given to all ethnic groups of this State." Article XV, Section 4, of the Hawaii State Constitution provides:

"English and Hawaiian shall be the official languages of Hawaii except that Hawaiian shall be required for public acts and transactions as provided by law."

Although Hawaiian was established as an official language of the State of Hawaii through this constitutional amendment and codified in section 1-13, Hawaii Revised Statutes, English continues to be predominate and Hawaiian language access to government functions remains limited. In *In re Ross*, the Hawaii Supreme Court held that "though the Hawaiian language is the original language of [Hawaii], the English language is largely in use." This measure, therefore, reinforces the parity of Hawaiian language with the English language by requiring Hawaiian for public acts and transactions and ensuring that laws drafted in Hawaiian shall be binding over English translations.

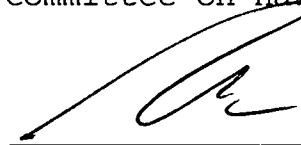
Your Committee has heard the testimony of the Department of the Attorney General that this measure could create due process and vagueness issues. Amending section 1-13, Hawaii Revised Statutes, to allow for a version of statute to supersede the English version may lead to ambiguities in the application and interpretation of laws. Your Committee also notes concerns over whether case law concerning the precedence of Hawaiian language over English should be overridden or controlling. Your Committee finds that these issues raise concerns that merit further consideration and requests that your Committee on Judiciary further examine those issues and concerns raised by the testifiers on this measure.



Your Committee has amended this measure by 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. 211, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 211, S.D. 1, and be referred to your Committee on Judiciary.

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



MAILE S.L. SHIMABUKURO, Chair



