

STAND. COM. REP. NO.

2974

Honolulu, Hawaii

MAR 04 2022

RE: S.B. No. 3329
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 3329 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC PARTICIPATION IN GOVERNMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the scope of chapter 643F, Hawaii Revised Statutes; and
- (2) Limit the requirement that discovery in certain legal proceedings be suspended upon the filing of certain motions to dispose of a claim to only the responding party on the applicable claim.

Your Committee received testimony in support of this measure from the League of Women Voters of Hawaii and one individual.

Prior to decision making on this measure, your Committee made available for public review a proposed S.D. 1, which amends this measure by deleting its contents and inserting language to:

- (1) Repeal chapter 634F, Hawaii Revised Statutes; and
- (2) Enact the Uniform Public Expression Protection Act.



Your Committee received testimony in support of the proposed S.D. 1 from the Uniform Law Commission, Commission to Promote Uniform Laws, Mālama Pūpūkea-Waimea, American Civil Liberties Union of Hawai'i, League of Women Voters of Hawaii, Surfrider Foundation, Sierra Club of Hawai'i, UNITE HERE Local 5, Motion Picture Association, Climate Protectors Hawai'i, Common Cause Hawaii, Hawaii's Thousand Friends, Center for Biological Diversity, The Outdoor Circle, Hawaii Association for Justice, and five individuals.

Your Committee finds that the enactment in 2002 of Hawai'i's Citizen Participation in Government Act, codified as chapter 634F, Hawaii Revised Statutes, was intended to promote the rights of citizens to vigorously participate in government and to protect citizens from the chilling effect of retributive "strategic lawsuit[s] against public participation" or "SLAPP" suits. To minimize the damage of SLAPP claims against citizens, Hawai'i's "Anti-SLAPP" law seeks to shift the burden of litigation back to the party bringing the SLAPP claim by providing for expedited judicial review, a stay on discovery, and sanctions. Your Committee further finds that despite the broad intentions of the Legislature that the law "shall be construed liberally to fully effectuate its purposes and intent", section 634F-4, Hawaii Revised Statutes, Hawai'i's Anti-SLAPP law, has not been effective at protecting citizen participation. Your Committee also finds that the Uniform Law Commission, also known as the National Conference of Commissioners on Uniform State Laws, established in 1892, provides states with non-partisan, well-conceived, and well-drafted legislation that brings clarity and stability to critical areas of state statutory law. This measure will protect public participation at all levels of government, with procedural protections for all parties, and clearer instructions for the courts on how to fairly and expeditiously dispose of SLAPP claims to ensure citizens are protected from punitive SLAPP suits.

Your Committee has amended this measure by adopting the proposed S.D. 1.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3329, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 3329, S.D. 1, and
be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
Thirty-First Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 33 29	Committee Referral: JDC	Date: 02-22-22		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
KEOHOKALOLE, Jarrett (VC)	✓			—
ACASIO, Laura	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
LEE, Chris	✓			
FEVELLA, Kurt	✓			
TOTAL	7	—	—	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: Karl Rhoads				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes