

STAND. COM. REP. NO. 475

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 678  
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 S.B. No. 678 entitled:

"A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the representative of labor on the Hawaii Labor Relations Board (HLRB) to be a person that is selected by a simple majority of the exclusive representatives of the collective bargaining units and appointed by the Governor by and with the advice and consent of the Hawaii State Senate; and
- (2) Allow the exclusive representatives of the collective bargaining units to remove the representative of labor from the HLRB during the member's term by a simple majority.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; Hawaii Fire Fighters Association, International Association of Fire Fighters Local 1463, AFL-CIO; Hawaii State Teachers Association; State of Hawaii Organization of Police Officers; United Public Workers, AFSCME Local 646, AFL-CIO; and University of Hawaii Professional Assembly. Your Committee



received testimony in opposition to this measure from the Office of Collective Bargaining. Your Committee received comments on this measure from the Hawaii Labor Relations Board.

Your Committee finds that the HLRB is a quasi-judicial board with jurisdiction over state public sector collective bargaining; state private sector collective bargaining; and cases pertaining to state occupational safety and health citations and whistleblower discrimination claims. The Board consists of three members – the Chair, who is the representative of the public, one member who is a representative of management, and another member who is a representative of labor. All three Board members are appointed to six-year terms by the Governor. Under existing law, the representative of management is appointed by the Governor, who must first consider the names submitted by each county. The representative of labor is appointed by the Governor from a list of three nominees submitted by mutual agreement from a majority of the exclusive representatives of the collective bargaining units. As for the Board Chair, the Governor's selection is not limited to names submitted by other parties.

This measure diminishes the Governor's authority over the appointment process of the labor representative, by requiring the Governor to appoint with the advice and consent of the Hawaii State Senate, the one individual chosen by the exclusive representatives of the collective bargaining units. This measure also gives the exclusive representatives authority to remove the board member if they determine, by simple majority, that the board member is not effective during the member's term.

Your Committee acknowledges the testimonies from numerous labor unions supporting this measure on the basis that the existing appointment process for the representative of labor gives the Governor too much authority over a quasi-judicial body that adjudicates disputes in which the Governor, serving as the employer, would often be involved as a party. Your Committee also acknowledges the testimonies of the Office of Collective Bargaining, finding no compelling reason to limit the pool of nominees for the representative of labor from three to one, leaving the Governor no choice but to appoint the single nominee.

Your Committee also acknowledges the testimony of the Board itself, raising numerous concerns over the current appointment



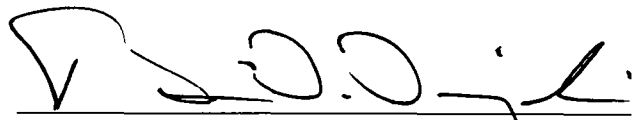
process and the process provided in this measure. This includes the fact that despite the HLRB having jurisdiction over three constituencies, only the state public employment collective bargaining sector has a voice as to who sits on the Board. The positions of private sector unions and small businesses are not reflected. The Board also points to its duty to act as a neutral body that does not favor certain parties. To maintain the Board's independence and neutrality, the members are protected from being removed based on political reasons or a party's negative response to an outcome of a case. The HLRB is concerned that the removal process provided in this measure may jeopardize its duty to remain neutral and take actions based on the facts and the law. Based on these testimonies, your Committee believes this measure requires further review and consideration.

Accordingly, your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to encourage further discussion; 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 S.B. No. 678, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 678, S.D. 1, and be referred to your Committee on Judiciary.

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

  
BRIAN T. TANIGUCHI, Chair



