

Honolulu, Hawaii

MAR 05 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 Judiciary, to which was referred S.B. No. 678, S.D. 1, 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 process determined by 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 Hawai'i State Senate;
- (2) Allow the simple majority of exclusive representatives who nominated the person to transmit the person's name directly to the Senate for confirmation if the Governor fails to nominate the person; and
- (3) Allow a simple majority of the exclusive representatives of the collective bargaining units to remove, via a written request to the Governor, the representative of labor from the HLRB during the member's term.

Your Committee received testimony in support of this measure from the Hawai'i State Teachers Association; United Public Workers,



AFSCME Local 646, AFL-CIO; and Hawai'i Government Employees Association, AFSCME Local 152, AFL-CIO. Your Committee received testimony in opposition to this measure from the Office of Collective Bargaining. Your Committee received comments on this measure from the Hawai'i 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. The Governor's selection for Board Chair is not limited to names submitted by other parties. This measure will require the Governor to appoint with the advice and consent of the Senate, the one individual chosen by the exclusive representatives of the collective bargaining units. This measure also gives the exclusive representatives authority to remove, via written request to the Governor, the board member if they determine, by simple majority, that the board member is not effective during the member's term.

Your Committee questions whether the removal provision established by this measure is constitutional and consistent with legal provisions related to other boards and commissions. Your Committee finds that this question merits further discussion as this measure proceeds through the legislative process.

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. 678, S.D. 1, and recommends that it pass Third Reading.



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

*Karl Rhoads*

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KARL RHOADS, Chair



