

DAVID Y. IGE
GOVERNOR



CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 21, 2021

TO: The Honorable Representative Mark M. Nakashima, Chair
House Committee on Judiciary & Hawaiian Affairs

FROM: Cathy Betts, Director

SUBJECT: **SB1395 SD2 HD1 - RELATING TO BOARDS AND COMMISSIONS.**

Hearing: March 23, 2021, 2:00 p.m.
Via videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) provides comments.

The Senate Committee on Government Operations amended the measure by making technical amendments. The Senate Committee on the Judiciary further amended the measure by,

- (1) Requiring the Governor to appoint an individual to fill a vacancy within all boards and commissions within one hundred eighty days;
- (2) Requiring that holdover appointments are limited to one hundred eighty days; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

The House Committee on Government Reform amended the measure by defecting the effective date and making technical amendments.

PURPOSE: The purposes of the bill requires the governor to appoint an individual to fill a vacancy within all boards and commissions within one hundred eighty days. Specifies that holdover appointments are limited to one hundred eighty days, after which time a vacancy is created on the board or commission. Requires department heads to inform the governor of

any vacancy in any board or commission. Requires an outgoing governor to provide the governor-elect with an up-to-date list of information about boards and commissions. Effective 7/1/2112. (HD1)

DHS provides the following comments. It is unclear whether the issues identified in previously submitted testimony are widespread, or whether the issues occur more frequently in particular boards or commissions.

To implement the proposal in Section 2, (a) assumes that there is a ready supply of qualified candidates available to fill vacancies and that the Governor's office has the required resources to vet all applicants for all vacancies in a timely manner given the wide variety of subject matters that boards and commissions are tasked to address.

Concerning the proposed amendment to (b) regarding holdover members, this also relies on the assumptions that there is a ready supply of qualified candidates to fill vacancies and that the Governor's office has the requisite resources to vet all applicants. The 180 day time frame on holdover members may impact boards' or commissions' ability to function as there may be a number of pending vacancies to be filled. A member willing to holdover after their term is complete may serve an important role in terms of knowledge, continuity, and leadership, and may be vital in maintaining the board's or commission's ability to conduct business and make decisions, especially if the holdover member is required for quorum. This would be especially true for volunteer commissions without staff.

As the definition of "quorum" varies depending upon the entity's establishing statute, this proposal may have a wide variety of consequences, and may discourage members of the public from participating on boards and commissions if leadership transitions are chaotic or if the continuity of business is interrupted with expiring memberships.

Thank you for the opportunity to provide comments on this measure.

DAVID Y. IGE
GOVERNOR



THOMAS WILLIAMS
EXECUTIVE DIRECTOR

KANOE MARGOL
DEPUTY EXECUTIVE DIRECTOR

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

TESTIMONY BY THOMAS WILLIAMS
DEPUTY EXECUTIVE DIRECTOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII

TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

ON
SENATE BILL NO. 1395, S.D. 2, H.D. 1

March 23, 2021
Time 2:00 P.M.
Conference Room 325

RELATING TO BOARDS AND COMMISSIONS

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee,

The Employees Retirement System of the State of Hawaii (ERS) provides comments on S.B. 1395, S.D.2, H.D.1.

It is unclear whether the issues identified in previously submitted testimony are widespread, or whether the issues occur more frequently in particular boards or commissions. The ERS has on occasion benefited from the services of holdover trustees who have remained in their positions in excess of 180 days.

To implement the proposal in Section 2, Section 26-34(a) and (b) assumes that there is a ready supply of qualified candidates available to fill vacancies and that the Governor's office has the required resources to vet all applicants for all vacancies in a timely manner given the wide variety of subject matters that boards and commissions are tasked to address. Of the three Governor-appointed trustees on the ERS board, for example, two are required by statute to have "at least three years of experience providing financial services, including investments, to public, corporate, or private institutional clients," (Section 88-24, subsection (3), Hawaii Revised Statutes).



Employees' Retirement System
of the State of Hawaii

Concerning the proposed amendment to Section 26-34(b) regarding holdover members and the 180-day time frame, this limitation may impact boards' or commissions' ability to function as there may be a number of pending vacancies to be filled. A member willing to holdover after their term is complete may serve an important role in terms of knowledge, continuity, and leadership, and may be vital in maintaining the board's or commission's ability to conduct business and make decisions, especially if the holdover member is required for quorum.

As the definition of "quorum" varies depending upon the entity's establishing statute, the proposal may have a wide variety of consequences, and may discourage member of the public from participating on boards or commissions.

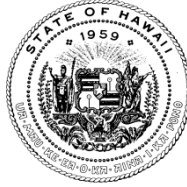
ERS recommends that more time should be allowed to fill vacancies within boards and commissions. Section 2, Section 26-34(b) on page 3 should not be amended by the bill and left in its original form:

“(b) Any member of a board or commission whose term has expired and who is not disqualified for membership under subsection (a) may continue in office as a holdover member until a successor is nominated and appointed; provided that a holdover member shall not hold office beyond the end of the second regular legislative session.”

As the legislature meets annually, this will provide for the board appointment to be confirmed at the next legislative session if the confirmation deadline cannot be met in a timely manner for the current session such as was the case for a number of appointments during last year's COVID-19 shortened session. This will provide the best opportunity for the board to meet its quorum to conduct business.

Thank you for this opportunity to provide testimony.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
DEREK J. CHOW
ROSS M. HIGASHI
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 23, 2021
2:00 P.M.
State Capitol, Teleconference

S.B 1395, S.D. 2, H.D. 1
RELATING TO BOARDS AND COMMISSIONS

House Committee on Judiciary & Hawaiian Affairs

The Department of Transportation (DOT) would like to provide **comments** on S.B. 1395, S.D. 2, H.D. 1, which requires the governor to appoint an individual to fill a vacancy within all boards and commissions within one hundred eighty days. The bill requires that holdover appointments are limited to one hundred eighty days, thereby creating a vacancy at the end of the holdover period, as well as requires department heads to inform the governor of any vacancy in any board or commission.

Based on our history of recruiting new board members for the Medical Advisory Board (MAB) and State Highway Safety Council, we recommend keeping the same amount of time for the holdover member to serve on the board. There have been periods in the past when we could not find a doctor willing to volunteer to serve on the MAB for over a year and could not meet our quorum of three doctor board members. Due to the two term limit for MAB board members, the DOT recommends that more time should be allowed to fill vacancies within boards and commissions and allow the holdover member to remain on the board until the end of the second legislative session as the law currently allows.

Since the legislature meets annually, the longer period will also provide for the board appointment to be confirmed at the next legislative session if the confirmation deadline cannot be met in time for the current session. This will provide for the best opportunity for the board to meet its quorum to conduct business.

Thank you for the opportunity to provide testimony.