

STAND. COM. REP. NO.

1162

Honolulu, Hawaii

MAR 17 2023

RE: H.B. No. 97
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 97, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PRELIMINARY DETERMINATION OF PROBABLE CAUSE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Campaign Spending Commission to serve preliminary determinations of probable cause via first-class mail and electronic mail; and
- (2) Establish a presumption of receipt when mailed to the address contained in the candidate or committee organizational report.

Your Committee received testimony in support of this measure from the Campaign Spending Commission, Commission to Improve Standards of Conduct, and one individual.

Your Committee finds that presently, the Campaign Spending Commission is required to serve the preliminary determination of probable cause by certified mail. The Campaign Spending Commission, in addition to certified mail, has been sending the preliminary determination of probable cause by first-class mail.



In several cases, although the document was sent by first-class mail and was not returned as undeliverable, if the document was also sent by certified mail and is not claimed by the candidate or committee, then it is returned to the Campaign Spending Commission. Under existing law, if there is no service by certified mail, the Campaign Spending Commission is unable to enforce its order and the case remains in limbo. Therefore, allowing the Campaign Spending Commission to serve the preliminary determination of probable cause by first-class mail will allow the Campaign Spending Commission to proceed with enforcement of its orders.

Your Committee has amended this measure by:

- (1) Removing language that would have required the Campaign Spending Commission to serve the preliminary determination of probable cause by electronic mail;
- (2) Inserting language that specifies that, as a courtesy, the Campaign Spending Commission shall send the preliminary determination of probable cause to the respondent by electronic mail; provided that the electronic mail shall not constitute service; and
- (3) Increasing the number of days for the presumption of receipt when mailed to the address contained in the candidate or committee organizational report to take effect from five days to seven days.

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 H.B. No. 97, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 97, H.D. 1, 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



