

STAND. COM. REP. NO.

1614

Honolulu, Hawaii

APR 04 2023

RE: H.B. No. 986
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. 986, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OFFICIAL MISCONDUCT,"

begs leave to report as follows:

The purpose and intent of this measure is to establish the class C felony offense of official misconduct to prohibit a person, in the person's official capacity, from acting or refraining from performing an official duty with the intent to obtain a benefit other than the person's lawful compensation, or submitting or inviting reliance on any false statement, document, or record.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Commission to Improve Standards of Conduct, Honolulu Police Department, and two individuals.

Your Committee finds that the existing bribery statute, section 710-1040, Hawaii Revised Statutes, only prohibits conduct involving monetary interests. However, public corruption can take many forms beyond mere economic gains, including illegal lobbying, bribery, sexual favors, favorable school placements for children, and anything that violates the public trust for personal gain. This measure will provide a mechanism to increase the public's



trust and confidence in the state and local government while providing law enforcement with a tool to adequately deter and commensurately punish public corruption.

Your Committee has amended this measure by:

- (1) Specifying that a public servant commits the offense of official misconduct when, in the person's official capacity, the person with intent to obtain a benefit other than the person's lawful compensation, intentionally or knowingly refrains from performing an official duty that is imposed upon the person by law or is clearly inherent in the nature of the person's office;
- (2) Defining "an official duty that is imposed upon the person by law or is clearly inherent in the nature of the person's office", as one or more unspecified duties that are so essential to the accomplishment of the purposes for which the office was created that it is clearly inherent in the nature of the office;
- (3) Deleting language that would have provided that the offense of official misconduct shall not apply to any statement made, action taken, or inaction by a member of the Legislature in the exercise of the member's legislative functions pursuant to article III, section 7, of the Hawaii State Constitution; and
- (4) 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 Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 986, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 986, 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

KARL RHOADS, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* HB 986 HD1	Committee Referral: JDC	Date: 3/21/23
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓	✓		
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.		✓		
AWA, Brenton	✓			
TOTAL	4	1	—	—

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:

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*Only one measure per Record of Votes