

STAND. COM. REP. NO. 335

Honolulu, Hawaii

FEB 15 2023

RE: S.B. No. 1074
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 S.B. No. 1074 entitled:

"A BILL FOR AN ACT PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE STATE OF HAWAII TO AMEND THE MANNER IN WHICH JUSTICES AND JUDGES ARE APPOINTED, CONSENTED TO, AND RETAINED,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Propose amendments to the Constitution of the State of Hawaii relating to the appointment and retention of justices and judges;
- (2) Authorize the Senate to approve or reject subsequent terms of office for supreme court justices;
- (3) Change the required time frames from thirty to ninety days for the process to appoint and consent to a justice or judge; and
- (4) Harmonize the senate consent procedures for district court judgeship nominees to mirror the senate consent procedures relating to supreme court justices, intermediate court of appeals, and circuit court judges.



Your Committee received testimony in opposition to this measure from the Judiciary, Office of the Public Defender, Judicial Selection Commission, Hawaii State Trial Judges Association, Hawaii State Bar Association, Community Alliance on Prisons, League of Women Voters of Hawaii, Hawai'i Friends of Civil Rights, Hawai'i Women Lawyers, Hawaii State Bar Association Litigation Section, Native Hawaiian Legal Corporation, Japanese American Citizens League, Hawaii Filipino Lawyers Association, Earthjustice, Hawaii State Committee of the American College of Trial Lawyers, and forty individuals. Your Committee received comments on this measure from the Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO.

Your Committee finds that the senate consent provisions of the Hawaii State Constitution relating to the appointment of district court judges are incongruous to those relating to supreme court justices and intermediate court of appeals and circuit court judges. In the case of supreme court justices and intermediate court of appeals and circuit court judges, if the Senate fails to reject an initial appointment to these courts within thirty days of receiving the appointment notice, the appointee is automatically considered appointed to the judicial position. For district court judgeship appointees, the exact opposite occurs. The appointee is automatically considered rejected if not consented to by the Senate within thirty days of receipt of the district court judgeship appointment. This measure will conform the district court judgeship consent procedures with the other judge's and justice's procedures.

Your Committee has amended this measure by:

- (1) Changing the required time frame for certain processes to appoint and consent to a justice's or judge's appointment from ninety days to forty-five days;
- (2) Restoring language that specifies that the Chief Justice shall appoint per diem district court judges;
- (3) Restoring language that specifies that at least six months prior to the expiration of the justice's or judge's term of office, every justice and judge shall petition the Judicial Selection Commission to be



retained in office or shall inform the Commission of an intention to retire;

- (4) Deleting language that would have authorized the Senate to approve or reject retention of a supreme court justice;
- (5) Amending section 1 to reflect its amended purpose; and
- (6) 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 S.B. No. 1074, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1074, S.D. 1, and be referred to your Committee on Ways and Means.

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

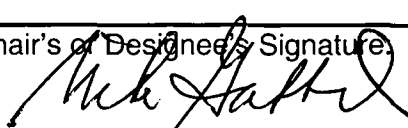


KARL RHOADS, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 1074	Committee Referral: JDC, WAM	Date: 2/3/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> 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	2	1	2	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes