

STAND. COM. REP. NO.

1610

Honolulu, Hawaii

APR 05 2007

RE: H.B. No. 1818  
H.D. 2  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred  
H.B. No. 1818, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO GOVERNMENT EMPLOYEES,"

begs leave to report as follows:

The purpose of this measure is to permit the state and county government to rehire retired employees as permanent employees in critical-to-fill or labor-shortage positions, including exempt positions or positions exempt from the civil service laws, without affecting the retirement benefits of the rehired retirees.

Your Committee circulated a proposed Senate Draft 1 on March 30, 2007, and held a hearing on April 3, 2007. The purpose of the proposed draft is to close a loophole that could potentially allow a department head of an executive department to remain in a holdover capacity indefinitely. This loophole circumvents the constitutional requirement that the Senate advise and consent to all nominations made by the Governor for heads of executive departments.

Opposing testimony was received from the Department of Human Resources Development, Department of Land and Natural Resources,



Department of Business, Economic Development & Tourism, and the Attorney General.

The Attorney General acknowledged Legislature's power in this measure by stating ". . . the Legislature's power to terminate the office of a cabinet director who is not renominated, and that the Legislature may do so, for example, as of the forty-fifth day of the legislative session following the expiration of the term of office of the cabinet member."

The Attorney General provided language stating "[u]pon the expiration of the term of a single executive department head, there shall be a vacancy, and if the single executive whose term expired is not nominated by the governor and confirmed by the senate by the end of the next regular session of the senate immediately following the expiration of the term creating the vacancy, that single executive shall cease to hold office, including in the capacity of a holdover, upon the end of that regular session of the senate."

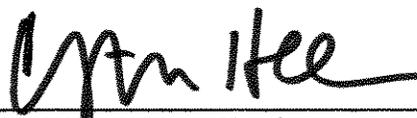
The measure has been amended by:

- (1) Incorporating the language recommended by the Attorney General in Section 1 of the measure;
- (2) Changing the submission deadline for the Governor to submit a nomination from the forty-fifth to the forty-first day of a regular session;
- (3) Adding new language to provide that, in the event that the Governor does not designate an officer or employee to fill the vacant office within sixty days of the vacancy, certain senior employees of a respective department shall serve as the temporary executive; and
- (4) Adding new language to Section 2 that explicitly states that section 26-33, Hawaii Revised Statutes, does not affect the members of boards and commissions, except when the chair of a board or a commission is the executive of a department.



As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1818, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1818, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

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



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CLAYTON HEE, Chair



