

Honolulu, Hawaii

APR 27 2017

RE: S.B. No. 314
S.D. 1
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 314, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ARBITRATION,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to amend the law regarding the disclosure requirements of an arbitrator in an arbitration by:

- (1) Clarifying that an interest or relationship that is required to be disclosed by an arbitrator includes a direct and material financial or personal interest in the outcome of the arbitration proceeding, or an existing or past substantial relationship with any of the parties to the agreement to arbitrate or other interested parties to the arbitration proceeding; and



- (2) Clarifying that if the court determines the arbitrator failed to disclose an interest or relationship that a reasonable person would consider likely to affect the impartiality of the arbitrator, then the court may determine that such a failure to disclose constituted evident partiality and vacate an award made by the arbitrator.

Your Committee on Conference finds that two recent decisions by the Supreme Court of Hawaii have affected the law relating to the disclosure requirements of an arbitrator that authorizes the trial court to vacate an arbitration award if the arbitrator failed to disclose a known fact that a reasonable person would consider likely to affect the impartiality of the arbitrator. In these two decisions, the Hawaii State Supreme Court held that an arbitrator's nondisclosure of information that may affect the arbitrator's impartiality constituted evident partiality as a matter of law and that the court was required to vacate the arbitrator's decision. This measure authorizes the trial court to determine the facts then impose relief that is appropriate and provides specific standards to enable the trial court to determine whether the arbitrator failed to disclose an interest or relationship that a reasonable person would consider likely to affect the impartiality of the arbitrator and whether to vacate an award made by an arbitrator who failed to disclose that information.

Your Committee on Conference has amended this measure by changing the effective date to upon its approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 314, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 314, S.D. 1, H.D. 1, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



SCOTT Y. NISHIMOTO
Chair



GILBERT S.C. KEITH-AGARAN
Chair



Hawaii State Legislature

CLR 70

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 314, SD 1, HD 1	Date/Time: 4/27/17 4:08 PM
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
KEITH-AGARAN, Gilbert S.C., Chr.	✓				NISHIMOTO, Scott Y., Chr.	✓			
KIM, Donna Mercado	✓				OSHIRO, Marcus R.	✓			
RHOADS, Karl	✓				MCDERMOTT, Bob	✓			
TOTAL	3	0	0	0	TOTAL	3	0	0	0

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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