

Honolulu, Hawaii

MAY 01 2018

RE: GOV. MSG. NO. 750

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Economic Development, Tourism, and Technology, to which was referred Governor's Message No. 750, submitting for study and consideration the nomination of:

BOARD OF DIRECTORS OF THE HAWAI'I TOURISM AUTHORITY

G.M. No. 750 L. RICHARD FRIED, JR.,
for a term to expire 06-30-2022,

begs leave to report as follows:

Your Committee reviewed the personal history, resume, and statement submitted by L. Richard Fried, Jr., for service on the Board of Directors of the Hawai'i Tourism Authority.

Your Committee received testimony in support of the nomination for the reappointment of L. Richard Fried, Jr., from the Department of Business, Economic Development, and Tourism; Hawai'i Tourism Authority; and O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i.

Mr. Fried received his L.L.B. and Bachelor of Science degrees from the University of Arizona. He is a founding member of the law firm of Cronin, Fried, Sekiya, Kekina & Fairbanks. Mr. Fried is nationally known in the fields of medical malpractice and aviation law. He is an active participant and contributor to the Board of Directors of the Hawai'i Tourism Authority. Mr. Fried has brought to the Board his extensive legal experience and has been serving as its Chair since 2016.



Your Committee finds that the Board of Directors (Board) is the policy-making body of the Hawai'i Tourism Authority pursuant to chapter 201B, Hawaii Revised Statutes. The Board is responsible for the number one economic driver of the State and is dedicated to increasing the economic benefits of the tourism industry for visitors and residents by marketing Hawaii as a tourist destination, thereby benefiting the residents of Hawaii. Your Committee believes that the Hawai'i Tourism Authority has the unique responsibility to not only attract visitors from around the world, but also to work with other state agencies to address the growing concerns of residents, which include overuse of state resources such as beaches, trails, and parks, and illegal vacation rentals. As the number of visitors coming to Hawaii continues to grow, so do the concerns of residents.

Your Committee has reviewed the background information and testimony submitted and finds that Mr. Fried is a nationally recognized attorney who is very skilled in his field and that his legal knowledge has assisted the Board during his tenure. However, your Committee has serious concerns regarding the transparency of the Board under Mr. Fried's leadership and questions his openness to sharing information with the Legislature.

Your Committee notes that in Mr. Fried's written response to the questionnaire, Mr. Fried emphasized the importance of transparency and open discussion. However, your Committee finds that during Mr. Fried's tenure as the Chair of the Board, access to specific information regarding the budget of the Hawai'i Tourism Authority was denied under the premise that the President and Chief Executive Officer had the authority to deny access to proprietary information with the approval of the Board. It has come to your Committee's attention that the statement was indeed false and that other members of the Board had no knowledge of this action to deny the Legislature information. Your Committee further finds that the decision to withhold information on the budget was a unilateral decision of the Chair at the time.

While Mr. Fried has expressed his apologies for such action, your Committee notes that the practice of withholding information from the Legislature continued to proceed.

Upon receipt of the budget, your Committee has found that the budget was being used for purposes other than what is stated, such as using the Convention Center funds to pay for salaries and other



expenses that are normally deemed as administrative expenses. The President of the Hawai'i Tourism Authority stated that he had received a letter of approval from the Department of the Attorney General indicating that the use of Convention Center funds to pay for salaries and other administrative expenses was permitted. When asked to review the letter of approval, your Committee was once again denied access to the letter due to attorney-client privilege. It was not until an audit was conducted on the Authority that the attorney-client privilege was waived and the letter of approval was released to your Committee for review.

These actions are concerning to your Committee as the requested information is necessary for lawmakers to make well-informed decisions regarding the Authority and to address the plethora of concerns expressed by residents of Hawaii regarding the tourism industry.

Your Committee further notes the concern that in June of 2017, during a board meeting, Mr. Fried unilaterally decided to go into an executive session for over two hours to discuss the budget, when past practice had been to make such discussions open to the public. Your Committee finds it especially concerning that the decision to go into an executive session was a unilateral decision of the Chair, and no vote was taken by the other board members to approve the executive session. In an informal written opinion from the Office of Information Practices, it was determined that an executive session was not necessary as matters such as environmental issues, visitor impact alleviation, and matters affecting the Hawaiian culture were discussed and do not require an executive session.

Your Committee has concerns regarding whether Mr. Fried will be able to maintain a transparent and open leadership over the Board given his past practices to withhold information from the Legislature and use of executive sessions regarding the budget of the Authority. Members of your Committee have discussed with Mr. Fried the concerns of the public to find a solution to the growing problems arising out of the tourism industry and do not find Mr. Fried to be committed to addressing the issues stated by the public and the Legislature.

Due to the above concerns regarding Mr. Fried, it was the recommendation of the Chair of your Committee to not advise and consent to Mr. Fried's nomination to the Board. Upon taking the vote, members of your Committee were divided, with two ayes and



two nays to not advise and consent to the nomination for the reappointment of Mr. Fried. This resulted in the recommendation not being adopted by your Committee; nevertheless, the nomination will move to the Senate floor for a final vote pursuant to Senate Rule 37.

Senate Rule 37 states, "[t]he standing committee to which a nomination . . . is referred, shall report to the Senate with a recommendation to advise and consent, confirm, or reject on or before the fifty-ninth day of the session." While the recommendation to not advise and consent this nominee was not adopted by your Committee, pursuant to Senate Rule 37(5), "The final question on appointments made by the Governor which require the confirmation or consent of the Senate shall be: "Will the Senate confirm (or consent) to this appointment?"". "

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development, Tourism, and
Technology,

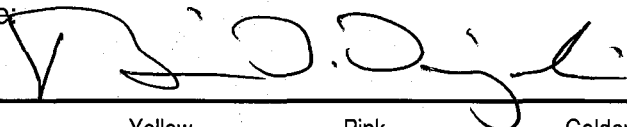


GLENN WAKAI, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Economic Development, Tourism, and Technology
ETT
Advise and Consent

Governor's Message No.:* GM 750	Committee Referral: ETT	Date: 4/20/18		
<input type="checkbox"/> The Committee is reconsidering its decision				
The Recommendation is:				
<input type="checkbox"/> Advise and Consent 2340	<input checked="" type="checkbox"/> Not Advise and Consent 2345			
Members	Aye	Aye (WR)	Nay	Excused
WAKAI, Glenn (C)	✓			
TANIGUCHI, Brian T. (VC)			✓	
BAKER, Rosalyn H.			✓	
GALUTERIA, Brickwood				✓
THIELEN, Laura H.	✓			
TOTAL	2	0	2	1
Recommendation:				
<input type="checkbox"/> Adopted <input checked="" type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one Governor's Message per Record of Votes