

Honolulu, Hawaii

APR 04 2018

RE: H.B. No. 1932  
H.D. 1  
S.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B.  
No. 1932, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO EMERGENCY RULES BY AGENCIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize agencies to adopt specified emergency rules to lessen disruptions to prior practices caused by changes to federal legislation or federal and state court decisions;
- (2) Require a public hearing with no less than thirty days' notice prior to the adoption of any emergency rule; and
- (3) Limit the effective period of an emergency rule to no longer than the first day of the next occurring regular session of the Legislature after adoption of the emergency rule.

Your Committee received testimony in support of this measure from the Department of Education; United Public Workers, AFSCME, Local 646, AFL-CIO; University of Hawaii Professional Assembly; and O'ahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i.



Your Committee finds that chapter 91, Hawaii Revised Statutes, provides procedures for government agencies to adopt rules and adjudicate certain disputes within the purview of the agency. The provisions of chapter 91 address the need for public input and transparency in rule-making but the process can be lengthy, which can inhibit an agency's ability to conform its administrative rules to changes in state and federal law, resulting in an inability to provide critical clarification and guidance in a timely manner. This measure will allow agencies to adopt emergency rules in response to changes in the requirements of federal law or based on a state or federal court decision.

Your Committee notes that changes in the requirements of federal law may necessitate action by the Legislature to amend provisions of the Hawaii Revised Statutes upon which an agency's administrative rules may rely. In that situation, an agency may be reliant on the enactment of legislation to provide a new statutory foundation upon which the agency may adopt new permanent rules, and an emergency rule adopted by an agency should be operational until the Legislature has had the time and opportunity to act.


Accordingly, your Committee has amended this measure by:

- (1) Making emergency rules effective until the Legislature has passed legislation relating to the subject matter of the emergency rule and the legislation has either been enacted or vetoed by the governor; and
- (2) Making a technical, nonsubstantive amendment 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. 1932, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1932, H.D. 1, S.D. 2.



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

  
BRIAN T. TANIGUCHI, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:*	Committee Referral:	Date:		
<i>HB1932, HD1, SD1</i>	<i>GVO, JDC</i>	<i>3/29/2018</i>		
<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
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
<b>TOTAL</b>	<i>4</i>	<i>0</i>	<i>0</i>	<i>1</i>
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

\*Only one measure per Record of Votes