

STAND. COM. REP. NO. 497

Honolulu, Hawaii

MAR 05 2009

RE: S.B. No. 474

S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 474 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE V, SECTION 6, OF THE HAWAII CONSTITUTION, TO CLARIFY THE GUBERNATORIAL APPOINTMENT PROCESS,"

begs leave to report as follows:

The purpose of this measure is to propose a constitutional amendment to clarify the appointment process for department heads and members of boards and commissions by requiring the Governor to nominate successors within the time limits required by law.

Your Committee received testimony in opposition to this measure from the Governor. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee finds that Article V, section 6, of the Hawaii Constitution provides for the nomination and appointment of executive officers without specifying a time period during which a vacancy in office must be filled. Constitutional provisions, such as section 6, assume, without specifying, that proper and timely nominations and appointments will be made by the Governor and that the time period during which the nominations are submitted to the Legislature will be consistent with the specific time periods during which the Legislature is in session and the Senate is able to properly act on the Governor's nominees. While the custom and practice of the executive branch has generally been to submit timely and proper nominations during legislative sessions, with



few exceptions, there is no specific requirement in the Constitution for the Governor to submit nominations to executive offices in a timely manner.

This measure proposes a constitutional amendment that will enable the Legislature to establish a time limit for the Governor to nominate a successor to fill a vacancy in office in an appropriate and timely manner.

Your Committee has amended this measure by making a technical, nonsubstantive amendment.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 474, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 474, 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
Government Operations,


BRIAN T. TANIGUCHI, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB474</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JGO</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/11/09</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div><input type="checkbox"/> Pass, unamended <small>2312</small></div> <div><input checked="" type="checkbox"/> Pass, with amendments <small>2311</small></div> <div><input type="checkbox"/> Hold <small>2310</small></div> <div><input type="checkbox"/> Recommit <small>2313</small></div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert	✓			
GABBARD, Mike				✓
NISHIHARA, Clarence K.	✓			
SLOM, Sam			✓	
TOTAL	4	0	1	1
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.2em; font-family: cursive; margin-top: 10px;"> </div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes