

STAND. COM. REP. NO. 674

Honolulu, Hawaii

MAR 06 2015

RE: S.B. No. 615
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 615 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE VI,
SECTION 3, OF THE CONSTITUTION OF THE STATE OF HAWAII,"

begs leave to report as follows:

The purpose and intent of this measure is to propose an
amendment to the Constitution of the State of Hawaii to clarify
the responsibilities and procedures for judicial appointments
pursuant to article VI, section 3.

Your Committee received testimony in support of this measure
from the League of Women Voters of Hawaii. Your Committee
received comments on this measure from the Department of the
Attorney General.

Your Committee finds that this measure would clarify
responsibilities and procedures with regard to judicial
appointments pursuant to article VI, section 3, of the
Constitution of the State of Hawaii. Specifically, this measure
would seek to avoid the situation that occurred in 2012 with
regard to the nomination of a Supreme Court justice by the
Governor. In that situation, the Governor informed the Senate of
the appointment thirty-two days after being presented with a list
of nominees from the Judicial Selection Commission, which was two
days after the expiration of the constitutionally mandated thirty-
day time period. However, the appointment was deemed valid by the
Attorney General under the reasoning that the Governor's initial



press conference to announce the nomination occurred five days prior to the expiration of the thirty-day period and was thus determined to be an open and unequivocal act of providing notice to the Senate. Consequently, the Attorney General's determination of the date of the Governor's appointment effectively shortened the Senate's constitutionally authorized thirty days to consider the appointment.

Your Committee finds that it would be beneficial for the state constitution to be amended to clarify that written notice of a nomination must be given to the Legislature by the Governor.

Your Committee has amended this measure by clarifying the question to be placed on the ballot to reference that the Senate has thirty days from receipt of written notice to take action on a judicial nomination.

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 S.B. No. 615, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 615, 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,


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 615</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">JDL</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">3/3/15</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-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
ESPERO, Will	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
SLOM, Sam	✓			
TOTAL	7			
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="text-align: right; 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