STAND. COM. REP. NO. 1544

Honolulu, Hawaii

APR 0 7 2017

RE: H.B. No. 1518

H.D. 1 S.D. 2

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

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 1518, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC RECORDS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow an agency to seek a declaratory judgment in the appropriate circuit court for a determination that a requester is a vexatious records requester;
- (2) Establish that the agency has the burden of proof to establish that the requester has a clear pattern of making requests that are manifestly excessive or in bad faith and interfere with an agency's responsibilities; and
- (3) Allow the court to grant further relief, subject to certain conditions.

Your Committee received testimony in support of this measure from the Department of Health, University of Hawai'i System, Office of Information Practices, and Hawaii Health Systems Corporation. Your Committee received testimony in opposition to this measure



from two individuals. Your Committee received comments on this measure from one individual.

Your Committee finds that the public interest in government affairs is often well served when the public is allowed to scrutinize the records of government agencies, as most record requests that are made under the Uniform Information Practices Act are valid and made in good faith. However, there are requesters who abuse the process, to the detriment of the public, by making repeated and excessive requests in attempts to harass an agency and drain resources. This measure establishes a process by which a requester acting in bad faith may be declared a vexatious records requester to protect and ensure the judicious use of government time and resources.

Your Committee has amended this measure by:

- (1) Clarifying that an agency has the burden of proof to establish by a preponderance of the evidence that the requester has a clear pattern of making records requests that are manifestly excessive or in bad faith and interfere with an agency's responsibilities; 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 and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1518, 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. 1518, H.D. 1, S.D. 2.

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

GILBERT S.C. KEITH-AGARAN, Chair

The Senate Twenty-Ninth Legislature State of Hawai'i

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:* HB 1518 HD 1 SD 1	GVO, JDL Date: 4/4/17				
The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
KEITH-AGARAN, Gilbert S.C. (C)					
RHOADS, Karl (VC)		/			
GABBARD, Mike					
KIM, Donna Mercado					
THIELEN, Laura H.		/			
			<u></u>		
		·			-
· · · · · · · · · · · · · · · · · · ·	-				
:					
TOTAL		4	0	0	· ·
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature:					
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

^{*}Only one measure per Record of Votes