

STAND. COM. REP. NO.

3107

Honolulu, Hawaii

MAR 23 2018

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

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

Sir:

Your Committee on Government Operations, to which was referred H.B. No. 1932, H.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 allow agencies to adopt specified emergency rules where new federal or state legislation or court decisions disrupt prior practice and urgent rule changes are needed to mitigate disruption.

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

Your Committee finds that it is important for government agencies to have the flexibility necessary to address the needs of the public in a timely manner. Periodically, changes to controlling law may require immediate alterations to long-standing statutes, rules, or agency practices. The issuance of federal decisions, changes in federal law, or court rulings may affect any regulated area, at any time, including when the Legislature is not in session, and require both specialized skill in the



interpretation of Hawaii law, and rapidity of response on an emergency basis to prevent impairment of important rights. Therefore, your Committee finds that allowing agencies to adopt emergency rules for immediate adaptation of Hawaii law to federal law, or other overarching Hawaii law, while preserving values and goals of the State is important to maintain proper and effective government functioning.

However, your Committee has concerns that this measure provides too much authority to government agencies at the expense of a duly elected Legislature. Your Committee notes that under this measure as currently drafted an agency may simply adopt an emergency rule that would override a legislatively enacted statute. Your Committee finds that this could undermine the authority of the Legislature.

In addition, your Committee finds that a sufficient period for public notice and public hearing on any proposed emergency rule should be established.

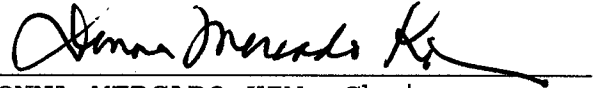
Accordingly, your Committee has amended this measure by:

- (1) Removing state legislation as a basis for adoption of an emergency rule;
- (2) Requiring a public hearing prior to the adoption of an emergency rule; provided that the agency shall give no less than thirty days' notice of the hearing;
- (3) Limiting 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; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1932, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1932, H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.



Respectfully submitted on
behalf of the members of the
Committee on Government
Operations,



DONNA MERCADO KIM, Chair



Record of Votes
Committee on Government Operations
GVO

*Only one measure per Record of Votes