

Honolulu, Hawaii

FEB 15 2019

RE: S.B. No. 1514
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Government Operations, to which was referred S.B. No. 1514 entitled:

"A BILL FOR AN ACT RELATING TO STATE AGENCIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit any state agency, including departments, offices, boards, agencies, authorities, instrumentalities, public corporations, other governmental organizations, and political subdivisions, from creating any corporate entity without the approval of the Legislature;
- (2) Require any corporate entity created by a state agency to provide a detailed accounting to the Legislature, Attorney General, and Auditor upon request;
- (3) Allow appropriations to a state agency to be withheld if a corporate entity within a state agency fails to provide a timely accounting upon request; and
- (4) Establish that any employee, officer, agent, or contractor of a state agency who improperly creates a corporate entity and transfers to that entity any



monies, property, or interest in property is guilty of theft.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association AFSCME Local 152, AFL-CIO. Your Committee received testimony in opposition to this measure from the Employees' Retirement System of the State of Hawaii. Your Committee received comments on this measure from the Department of the Attorney General and Office of Hawaiian Affairs.

Your Committee finds that the State and its subdivisions have an obligation in the management of trust revenues and properties to act prudently and ensure accountability and transparency. This measure prohibits state agencies from creating a corporate entity without the approval of the Legislature, requires a created corporate entity to provide an accounting upon request, and allows appropriations to be withheld for failure of a corporate entity to provide a timely accounting, which ensures transparency and accountability for the creation and oversight of corporate entities.

Your Committee understands the concerns raised by the Office of Hawaiian Affairs regarding its investments being similar to that of the Employees' Retirement System. However, your Committee notes that the Employees' Retirement System is governed by numerous fiduciary provisions that may not apply to other state agencies. Therefore, some additional oversight or transparency may be warranted. Your Committee concludes that additional discussion on this matter is needed.

Your Committee has amended this measure by:

- (1) Specifying that the prohibitions against state agencies creating corporate entities without legislative approval also applies to the Office of Hawaiian Affairs;
- (2) Removing language that would have found a person who created a corporate entity without legislative approval or transferred any monies, property, or interest to that corporate entity guilty of theft;
- (3) Clarifying that the State Employees' Retirement System is exempt from the prohibitions established by this



measure, to ensure that the Employees' Retirement System is able to continue making investments as authorized by law;

- (4) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (5) 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 S.B. No. 1514, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1514, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

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

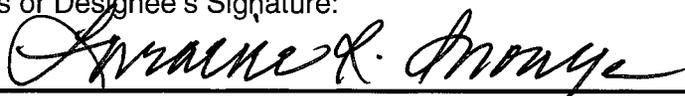


LAURA H. THIELEN, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Government Operations
GVO

Bill / Resolution No.:* <i>SB 1514</i>	Committee Referral: <i>GVO, JDC/WAM</i>	Date: <i>2/12/2019</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
THIELEN, Laura H. (C)	✓			
INOUYE, Lorraine R. (VC)	✓			
BAKER, Rosalyn H.				✓
KANUHA, Dru Mamo	✓			
FEVELLA, Kurt	✓			
TOTAL	<i>4</i>			<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> 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