

STAND. COM. REP. NO. 7

Honolulu, Hawaii

FEB 02 2023

RE: S.B. No. 32  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-Second State Legislature  
Regular Session of 2023  
State of Hawaii

Sir:

Your Committee on Hawaiian Affairs, to which was referred  
S.B. No. 32 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO THE HAWAII STATE  
CONSTITUTION TO REQUIRE THE REAPPORTIONMENT COMMISSION TO  
ESTABLISH A REAPPORTIONMENT PLAN TO DRAW DISTRICT LINES FOR  
THE MEMBERS OF THE OFFICE OF HAWAIIAN AFFAIRS BOARD OF  
TRUSTEES,"

begs leave to report as follows:

The purpose and intent of this measure is to amend the Hawaii  
State Constitution to require the Reapportionment Commission to  
establish a reapportionment plan to be used for the election of  
members of the Board of Trustees of the Office of Hawaiian  
Affairs.

Your Committee received testimony in support of this measure  
from three individuals. Your Committee received testimony in  
opposition to this measure from one individual. Your Committee  
received comments on this measure from the Department of the  
Attorney General and the Office of Hawaiian Affairs.

Your Committee finds that under existing law, members of the  
Board of Trustees of the Office of Hawaiian Affairs are elected  
during an at-large statewide election in which all registered  
voters are permitted to vote to elect all trustees. Your  
Committee further finds that due to the at-large nature of these



elections, outer islands are often placed at a disadvantage to Oahu because of their smaller population bases. Your Committee further finds that at-large elections create cost burdens for outer island candidates who are forced to campaign statewide, and that the process itself can lead to voters being confused about why they are electing candidates who do not reside on their own island.

Your Committee finds that this measure, paired with a related measure S.B. No. 52, Regular Session of 2023, would address these problems by requiring the Reapportionment Commission to draw district lines for members of the Board of Trustees of the Office of Hawaiian Affairs based on the number of permanent residents in each of the four basic island units, transitioning the election for Board of Trustees from an at-large election to an election based on single-member districts, similar to the way congressional elections are held.

Your Committee notes the testimony of the Department of the Attorney General and its concern that the reapportionment of the nine-member Board of Trustees among the four basic island units may fall short of the one-person, one-vote standard established by the United States Supreme Court in *Reynolds v. Sims*, 377 U.S. 533 (1964), which held that states must make honest and good faith efforts to construct districts with equal numbers of persons as practicable. Due to the significant disparities in population among the basic island units, especially the island of Kauai, deviations from population equality may be required under this measure and may result in a violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. The Department of the Attorney General also expressed concern that the measure does not address how the current nine-member board will transition to a completely new nine-member board after reapportionment. The Office of Hawaiian Affairs opined in its testimony that a constitutional amendment is not required and that reapportionment could be accomplished by statutory amendment alone. The Office of Hawaiian Affairs also expressed concern that raising a constitutional amendment relating to the establishment of the Office of Hawaiian Affairs could lead to a slippery slope and compromise the organization's very existence.



Your Committee finds that these issues merit further consideration and requests that your Committees on Judiciary and Ways and Means further examine the concerns raised by the testifiers on this measure.

Therefore, your Committee has amended this measure by:

- (1) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (2) 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 32, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 32, 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 Hawaiian Affairs,

  
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MAILE S.L. SHIMABUKURO, Chair



