

Honolulu, Hawaii

FEB 06 2023

RE: S.B. No. 437
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. 437 entitled:

"A BILL FOR AN ACT RELATING TO INTERIM ADMINISTRATIVE RULES
OF THE DEPARTMENT OF HAWAIIAN HOME LANDS,"

begs leave to report as follows:

The purpose and intent of this measure is to allow the Department of Hawaiian Home Lands to issue interim rules, effective for not more than eighteen months, that are exempt from the public notice, public hearing, and gubernatorial approval requirements of chapter 91, Hawaii Revised Statutes, after beneficiary consultation is conducted by the Department of Hawaiian Home Lands and upon approval by the Hawaiian Homes Commission.

Your Committee received testimony in support of this measure from the Department of Hawaiian Home Lands. Your Committee received testimony in opposition to this measure from the Sovereign Council of Hawaiian Homestead Associations, UNITE HERE Local 5, and five individuals. Your Committee received comments on this measure from Hui Kako'o 'Āina Ho'opulapula.

Your Committee finds that under existing law, the Department of Hawaiian Home Lands must conduct beneficiary consultations, or direct outreach to lessees, applicants, and native Hawaiians, before it can initiate any rulemaking procedures pursuant to



chapter 91, Hawaii Revised Statutes. Your Committee further finds that beneficiary consultations alone are often comprehensive and sufficient to provide a foundation for the Department of Hawaiian Home Lands to address issues that arise. Your Committee finds that, while required, the lengthy nature of the rulemaking process on top of beneficiary consultation can forestall changes that require immediate response.

Therefore, this measure allows the Department of Hawaiian Home Lands to issue interim rules exempt from the public notice, public hearing, and gubernatorial approval requirements, after beneficiary consultation is conducted by the Department of Hawaiian Home Lands and upon approval by the Hawaiian Homes Commission, provided that the interim rules will be effective for not more than eighteen months.

Your Committee has heard the testimony of those in opposition to the measure, expressing concerns that exempting the Department of Hawaiian Home Lands from public notice requirements would deny native Hawaiian beneficiaries impacted by interim rules the transparency and accountability in government they deserve. Your Committee, while noting that the measure still requires beneficiary consultation before interim rules can be promulgated and that the interim rules are temporary in nature, finds that this concern has merit.

Therefore, your Committee has amended this measure by:

- (1) Reinstating the public notice requirement for interim rules pursuant to chapter 91, Hawaii Revised Statutes;
- (2) Establishing the measure's interim rule process within the Hawaiian Homes Commission Act, 1920, as amended, instead of within the Hawaii Revised Statutes;
- (3) Amending section 1 to reflect its amended purpose; 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 Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B.



No. 437, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 437, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Hawaiian Affairs,



MAILE S.L. SHIMABUKURO, Chair



The Senate
Thirty-Second Legislature
State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:	Committee Referral:	Date:
SB 437	HWN, JDC	01-31-2023

The Committee is reconsidering its previous decision on this measure.
If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	X			
FEVELLA, Kurt (VC)			X	
IHARA, Jr., Les				X
KEOHOKALOOLE, Jarrett	X			
RICHARDS, III, Herbert M. "Tim"	X			
TOTAL	3	-	1	1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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*Only one measure per Record of Votes