STAND. COM. REP. NO. 1162

Honolulu, Hawaii

MAR 1 7 2023

RE: H.B. No. 97 H.D. 1 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 Judiciary, to which was referred H.B. No. 97, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PRELIMINARY DETERMINATION OF PROBABLE CAUSE, "

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Campaign Spending Commission to serve preliminary determinations of probable cause via firstclass mail and electronic mail; and
- (2) Establish a presumption of receipt when mailed to the address contained in the candidate or committee organizational report.

Your Committee received testimony in support of this measure from the Campaign Spending Commission, Commission to Improve Standards of Conduct, and one individual.

Your Committee finds that presently, the Campaign Spending Commission is required to serve the preliminary determination of probable cause by certified mail. The Campaign Spending Commission, in addition to certified mail, has been sending the preliminary determination of probable cause by first-class mail.



In several cases, although the document was sent by first-class mail and was not returned as undeliverable, if the document was also sent by certified mail and is not claimed by the candidate or committee, then it is returned to the Campaign Spending Commission. Under existing law, if there is no service by certified mail, the Campaign Spending Commission is unable to enforce its order and the case remains in limbo. Therefore, allowing the Campaign Spending Commission to serve the preliminary determination of probable cause by first-class mail will allow the Campaign Spending Commission to proceed with enforcement of its orders.

Your Committee has amended this measure by:

- Removing language that would have required the Campaign Spending Commission to serve the preliminary determination of probable cause by electronic mail;
- (2) Inserting language that specifies that, as a courtesy, the Campaign Spending Commission shall send the preliminary determination of probable cause to the respondent by electronic mail; provided that the electronic mail shall not constitute service; and
- (3) Increasing the number of days for the presumption of receipt when mailed to the address contained in the candidate or committee organizational report to take effect from five days to seven days.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 97, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 97, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

> Respectfully submitted on behalf of the members of the Committee on Judiciary,

KARL RHOADS, Chair



The Senate Thirty-Second Legislature State of Hawai'i

Record of Votes Committee on Judiciary JDC

Bill / Resolution No.:*	Committee	Referral:	Dat		
HB 97 HDI	JD	\mathcal{C}		3/9/:	23
The Committee is re	econsidering its	previous de	cision on thi	is measure	
If so, then the previou	s decision was to):	-		
The Recommendation is:	1				
Pass, unamended 2312		th amendme 311		old 310	Recommit 2313
Members		Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)		V			
GABBARD, Mike (VC)					
ELEFANTE, Brandon J.C.		V,			
SAN BUENAVENTURA, Jo	by A.	\vee			
AWA, Brenton					
TOTAL	1	5			
Recommendation:		<u> </u>	<u> </u>		
Adopted Not Adopted					
Chair slor pesignee's Sign	ature:				
Distribution: Original		ellow ‹'s Office E	Pink Praffing Agency		Idenrod tee File Copy
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*Only <u>one</u> measure per Record of Votes