

STATE OF HAWAII
DEPARTMENT OF HEALTH
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WRITTEN
TESTIMONY ONLY

**Testimony in SUPPORT of S.B. 313
RELATING TO THE STATE REHABILITATION COUNCIL**

SENATOR KARL RHOADS, CHAIR
SENATE COMMITTEE ON JUDICIARY

Hearing Date, Time and Room Number: Thursday, February 23, 2023, 9:45 a.m., Rm. 415/VIDEO

1 **Fiscal Implications:** Undetermined.

2 **Department Position:** The Department of Health (“Department”) supports this measure and
3 offers comments.

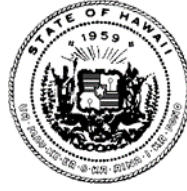
4 **Department Testimony:** The Adult Mental Health Division (AMHD) provides the following
5 testimony on behalf of the Department.

6 The purpose of this measure is to reduce the number of State Rehabilitation Council
7 (SRC) members from 21 to 15. The bill also authorizes the SRC to establish a quorum and
8 conduct business without regard to vacancies.

9 The Department defers to the Department of Human Services, Division of Vocational
10 Rehabilitation and the SRC for this measure regarding the membership size and determination
11 of quorum, including proposed amendments. We offer that the State Council on
12 Developmental Disabilities and the State Council on Mental Health are administratively
13 attached to the Department, and we support the establishment of working relationships
14 between the councils as identified on page 5, lines 3 through 11.

15 Thank you for the opportunity to testify on this measure.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 21, 2023

TO: The Honorable Senator Karl Rhoads, Chair
Senate Committee on Judiciary

FROM: Cathy Betts, Director

SUBJECT: **SB 313 – RELATING TO THE STATE REHABILITATION COUNCIL.**

Hearing: Thursday, February 23, 2023, 9:45 a.m.
Conference Room 016 & Videoconferencing, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports this bill.

PURPOSE: This bill reduces the number of members on the State Rehabilitation Council from twenty-one to fifteen. Authorizes the State Rehabilitation Council to establish a quorum and conduct business without regard to vacancies.

The federal Section 105 of the Rehabilitation Act of 1973, as amended, requires consumers, advocates, and other representatives of individuals with disabilities to participate in the administration and oversight of a state's Vocational Rehabilitation (VR) program. The State Rehabilitation Council (SRC) fulfills this mandate and is required for vocational rehabilitation programs to be eligible for and maintain federal VR funding. The passage of this bill will ensure that the SRC can fulfill its mission and that the State retains federal VR funding.

Federal 34 C.F.R. §361.17(b)(1) stipulates the SRC must consist of at least fifteen (15) members, whereas section 348-8(a), Hawaii Revised Statutes (HRS), stipulates the council shall consist of twenty-one (21) members. The Hawaii SRC Executive Committee has had difficulties

recruiting and filling all 21 representative seats required by section 348-8, HRS, therefore, not consistently meeting quorum requirements and hindering the SCR's decision-making. Therefore, DHS DVR supports SB 313 to amend section 348-8(a), HRS, to match 34 C.F.R. § 361.17(b)(1) with the requirement of fifteen (15) members to fulfill quorum.

Federal 34 C.F.R. § 361.17(e)(1) stipulates that the member representing the Client Assistance Program (CAP) shall not be subject to term limits. In many states, there are limited CAP representatives or none to fulfill this federal requirement, and it has been noted that it is not feasible to expect an alternate CAP Representative to be available to replace the CAP representative who has served their term under current limits, especially since federal regulations exempts this SRC representative from term limits. The Department supports this bill to amend section 348-8(a)(10), HRS, to match 34 C.F.R. § 361.17(e)(1) so that the Hawaii SRC CAP representative is exempt from term limits in the State of Hawaii.

State boards must meet quorum requirements (i.e., a majority of voting board members) at Quarterly Meetings. Hawaii's SRC Chair has experienced ongoing challenges in meeting quorum requirements due to appointed board representatives being absent and numerous vacant representative seats; therefore, the Department supports this bill to amend section 348-8, HRS, to eliminate the count of vacant representative seats to meet quorum requirements.

Thank you for the opportunity to provide comments in support of this measure.

Hawaii State Rehabilitation Council

February 22, 2023

Senator Karl Rhoads, Chair

Committee on Judiciary

Hawaii State Capitol, Room 213

Honolulu, HI 96813

RE: Testimony in support of S.B. 313

Dear Honorable Senator Carl Rhoads, Honorable Senator Mike Gabbard, and Committee Members:

The State Rehabilitation Council (SRC) submits this testimony in strong support of S.B. 313.

The SRC's Client Assistance Program (CAP) Representative has indicated the discrepancy with term limits. Federal 34 C.F.R. § 361.17(e)(1) Requirements for an SRC stipulates that the CAP Representative is exempt from term limits whereas State HRS §348-8(a)(10) State Rehabilitation Council does not stipulate the SRC CAP Representative exemption, therefore, is subject to term limits.

Due to HRS statute, Boards & Commissions refused the opportunity for the SRC CAP Representative to be appointed to continue to serve on the board during the 2022 Legislative Sessions. The Senator graciously provided an attachment to a July 18, 2022 correspondence for the SRC CAP Representative to continue to serve on an interim basis.

The SRC, respectfully, requests your committee's support of S.B. 313 which revises HRS §348-8(a)(10) to match 34 C.F.R. § 361.17(e)(1) so that the SRC CAP Representative is exempt from term limits in the State of Hawaii.

In addition, Federal 34 C.F.R. § 361.17(b)(1) stipulates the SRC must consist of at least fifteen (15) members whereas State HRS §348-8(a) stipulates the council shall consist of twenty-one (21) members. The SRC Executive Committee has had difficulties recruiting and fulfilling all 21 representative seats required by HRS, therefore, not meeting quorum requirements.

The SRC, respectfully, requests your committee's support of S.B. 313 to revise HRS §348-8(a) to match 34 C.F.R. § 361.17(b)(1) 15-member requirement or an exception clause to HRS §348-8(a) to not factor vacancies to satisfy quorum so that the SRC can fulfill quorum requirements at Quarterly Meetings and conduct business as advocates for persons with disabilities.

Thank you for the opportunity to submit this testimony in support of S.B. 313.

Sincerely,

A handwritten signature in blue ink that reads "Annette Tashiro". The signature is fluid and cursive, with the first name being more prominent than the last.

Annette Tashiro, Chair
State Rehabilitation Council

Tel. 808-384-8319

actashiro@gmail.com

SB-313

Submitted on: 2/21/2023 12:15:03 PM

Testimony for JDC on 2/23/2023 9:45:00 AM

Submitted By	Organization	Testifier Position	Testify
Louis Erteschik	Testifying for Hawaii Disability Rights Center	Support	Written Testimony Only

Comments:

Mahalo for hearing this bill. Regarding the provision relating to the quorum or the number of members on the State Rehabilitation Council, we will defer to the Chair of the Council.

However, the other provision in the bill really affects our agency. The “Client Assistance Program” (CAP) is one of several programs implemented by the Hawaii Disability Rights Center. Both federal and state law require that a representative of our agency (the state designated protection and advocacy agency) serve on the Council. Federal law specifically states that the member representing our agency is exempt from any term limits. Hawaii State Law is ambiguous at best and , more likely, contrary to federal law. State law has term limits for Council members in general but does not specifically mention whether that applies to the member representing the Client Assistance Program.

Last year the Senate held a confirmation hearing for our designated representative to the Council whose term was otherwise due for renewal. Subsequent to that, the Governor’s Office of Boards and Commissions revoked the Governor’s Message appointing him, claiming that he was term limited and ineligible for reappointment. I literally spent many hours going back and forth with a Deputy Attorney General who finally agreed that the federal law superseded the state law and so an interim appointment was made. That was fortunate because there was really nobody else on our staff with the equal depth of commitment and expertise who was in a position to serve.

This bill is merely a housekeeping measure that would clarify state law to conform with the federal requirement on the exemption from term limits. Without that change in state law we will continue to have this open question of whether state or federal law controls. It would be very helpful to clear up any confusion.

Mahalo for your consideration.