

SB-349-SD-1

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Testimony for JDC on 2/24/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Kent	Testifying for Commission to Promote Uniform Laws	Oppose	Written Testimony Only

Comments:

Aloha,

Thank you for the opportunity to present testimony on this bill.

As a member of the Commission to Promote Uniform Laws, if confirmation by the Senate is required, I would prefer confirmation by the entire Senate rather than one committee. Commissioners work on a variety of different subject areas as Uniform Law Commissioners and therefore appear before many different committees. So if confirmation is required, I would rather have a decision made on my nomination by the entire Senate because more Senators may have had experience with me than just the members that are on one committee.

Thank you for considering my input. I preferred the original draft of this bill as it related to the Commission to Promote Uniform Laws (no confirmation required).

Elizabeth Kent

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February 23, 2023

Honorable Karl Rhoads, Chair
Honorable Mike Gabbard Vice Chair
Committee on Judiciary
The Senate
415 S. Beretania Street
Honolulu, Hawaii 9681

Re: SB349, SD1, relating to Boards and Commissions

Dear Chair Rhoads, Vice Chair Gabbard and Committee Members:

This written testimony is submitted to provide comments with respect to Senate Bill No. 349, S.D.1, relating to boards and commissions. I currently serve as a member of the Commission to Promote Uniform Legislation (“CPUL”), but this testimony is offered in my individual capacity.

The original version of Senate Bill No. 349 would have deleted the requirement of Senate confirmation of nominees to certain commissions, including the CPUL. Senate Draft 1 provides that confirmation will be solely by the Committee on Government Operations.

My impression is that certain other Senate committees, such as the Committee on Judiciary, may be referred uniform law related bills more frequently than the Committee on Government Operations, and, therefore, may have greater familiarity with the work of the CPUL. Also, because the scope of uniform law bills may be broad, there may be Senators who do not serve on Government Operations, but who have experience with the CPUL. Therefore, I would respectfully request consideration of the original version of Senate Bill No. 349, or, in the alternative, retention of the current confirmation process.

Thank you for your consideration.

Very truly yours,



Peter Hamasaki

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February 23, 2023

Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice-Chair
Senate Judiciary Committee Members

Re: SB349: RELATING TO BOARDS AND COMMISSIONS - COMMENTS

Dear Chair, Vice-Chair and Committee Members:

Thank you for the opportunity to testify with comments on Senate Bill (SB) 349. I am a member of Hawaii's Commission to Promote Uniform Legislation (CPUL or Commission), but am testifying in my individual capacity and not for the Commission, nor for my government position.

The bill's original purpose, inter alia, was to remove the requirement of Senate advice and consent for the Commission members. I was neutral or generally supportive of the bill as introduced because I considered that to be a policy call entirely up to the Legislature and its authorities under the Separate of Powers and checks and balances. However, the Senate Draft (SD) 1 changes are concerning.

In particular, the bill now makes appointment subject to approval by a single Senate Committee and names the particular standing committee in statute. My concern here is that it is my understanding that Senate Standing Committees are formed by Senate Rules and are not designated by Hawaii Constitution or Haw. Rev. Stat. (HRS). As such, it does not seem prudent to statutorily designate a body that is subject to Senate Rules which I understand are adopted at the start of each biennium legislative session.

In addition, I am unaware of any other board or commission currently under the requirement of advice and consent under HRS 26-34 being subject to just one Senate committee. Instead, Senate committees make a recommendation which then goes to the entire membership for a vote. This bill would mean a significant departure from the process, and for reasons I am not certain why the CPUL would be distinguishable.

The Commission's work is statutorily an "advisory capacity" to the Attorney General and the Hawaii State Legislature on "matters relating to the promotion of uniform legislation." Haw. Rev. Stat. (HRS) Section 26-7. As such, the CPUL here acts in collaboration with the Uniform Law Commission (ULC), during its deliberative work in coming up with the proposed uniform legislation.

The ULC was established in 1892 and provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law. ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

The ULC drafts uniform laws for the states to consider and enact. A uniform act is one that seeks to establish the same law on a subject among the various jurisdictions. When the term “uniform” is used in the nation’s laws, it is highly likely that the ULC drafted the act.

Due to the purpose and scope of the CPUL, it strikes me as odd why the CPUL would be singled out for a particular treatment under a different process. And while I could see the above background justifying little to no need for Senate advise and consent, I am not sure relegating it a standing committee serves the same or any real purpose.

Thank you for considering my testimony.

Comments from Ken Takayama re SB349, SD1

Ken Takayama <ktakayama13@gmail.com>

Thu 2/23/2023 9:34 AM

To: Sen. Karl Rhoads <SenRhoads@capitol.hawaii.gov>; Jessie Faige <j.faige@capitol.hawaii.gov>

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Senator Rhoads,

I apologize for the informality of these comments, but the computer system "ate" my comments which I was not able to recover.

1. SB349, SD1 proposes to place the state Commission to Promote Uniform Legislation (among others) under the purview of the Senate Committee on Government Operations;
2. I do not believe that such an arrangement would be inherently "immoral" or "wrong" ;
3. However, I believe that the Legislature should move cautiously and consult with the Attorney General because of the state constitutional requirement in article V, section 6 that all executive agencies be part of or attached to one of 20 "principal departments";
4. It is not entirely clear how that requirement will work in situations such as these;
5. On a more mundane level, the impact on the legislative staff personnel should not be overlooked.
6. At least initially, situations may occur where legislative staff may need to learn how to apply legislative operations and policies to any executive agency personnel who will need to carry out the newly applied requirements, such as, who will be responsible for composing what will probably amount to at least one annual report for each agency affected by this measure.

Thank you for your consideration.

Ken
Ken Takayama