

STAND. COM. REP. NO. \_\_\_\_\_

Honolulu, Hawaii

, 2000

RE: S.B. No. 1

Honorable Norman Mizuguchi  
President of the Senate  
Twentieth State Legislature  
Second Special Session of 2000  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1 entitled:

"A BILL FOR AN ACT PROPOSING AN AMENDMENT TO ARTICLE IV, SECTIONS 7 AND 8, OF THE CONSTITUTION OF THE STATE OF HAWAII, TO STAGGER SENATE TERMS AFTER REAPPORTIONMENT,"

begs leave to report as follows:

The purpose of this measure is to amend the Constitution of the State of Hawaii to provide for the equitable staggering of senate terms following reapportionment.

The following parties submitted testimony in support of the measure: State of Hawaii Attorney General, League of Women Voters of Hawaii, Good Government Coalition, Hawaii's Thousand Friends, Small Business Economic Revival Force, Advocates for Consumer Rights, Kokua Council, Neighborhood Board No. 5, Community Work Day Program, Common Cause Hawaii, Hawai'i Clean Elections, a member of the 1991 Reapportionment Commission, and four individuals. The Office of Elections submitted comments on the measure.

Under current constitutional provisions, all twenty-five members of the Senate are elected for four-year terms that are staggered according to a constitutional plan established in 1978, as amended in 1992. Under the present staggered term schedule, twelve senators elected in 1998 are serving four-year terms that end in 2002. In addition to the senator elected in the special election for District 18, thirteen senators will be elected in 2000. However, because 2001 is a reapportionment year, the State Constitution requires that all senatorial terms

end at the general election at which an apportionment plan becomes effective. Thus, the terms of the aforesaid thirteen senators elected in 2000 will end in 2002, resulting in two-year terms for these members. All twenty-five members of the Senate will be elected in 2002.

Article IV, section 8 of the State Constitution establishes the re-staggering of Senate terms following reapportionment. The current constitutional re-staggering scheme focuses on incumbent senators to insure fair treatment of incumbent senators whose terms were cut short. Thus, a senator re-elected in 2002, whose prior term of office was shortened to two years because of the occurrence of a reapportionment year, is assigned a four-year term, while a re-elected senator who served a four-year term immediately preceding re-election is assigned a two-year term. All challengers who are elected during the 2002 election, without regard to their incumbent opponents during the election, will receive two-year terms.

This measure changes the focus from the senator to the senate seat by replacing the language in article IV, section 8 of the State Constitution with new criteria. This criteria will maintain the staggered senate terms using the same resident population base used by the Reapportionment Commission in establishing senatorial districts.

As amended, section 8 requires the Reapportionment Commission, as part of the reapportionment plan, to assign two-year terms to twelve senate seats to be filled in the election immediately following adoption of the reapportionment plan and to assign four-year terms to the remaining thirteen seats. The Commission should assign the two-year terms in such a way that in the six-year period beginning in the even-numbered year prior to the reapportionment year, the permanent resident population of each senate district as determined by the Commission will have no more than two regular senate elections.

The Commission's task to determine which senate districts should be assigned the two-year terms after the reapportionment will be a difficult and staggering, but essential task. As amended, the Constitution will require the Commission to calculate in some fashion, the number and/or percentage of permanent residents in each senate district that reside in an old senate district as that district existed immediately prior

to the reapportionment year. The assignment of the two-year terms beginning in 2002 shall be made to those districts in which the least number and/or percentage of these permanent residents (who had a regular senatorial election in 2000) are found.

If the Reapportionment Commission creates multi-member districts, as it may under the Constitution, this measure provides an additional criterion in assigning the four-year terms of office. In the case of a multi-member senate district, the senators (or if there is but one four-year term assigned to the district by the Commission, the senator) elected with the highest number of votes in the election following reapportionment would fill the senate seats (or senate seat) assigned four-year terms by the Commission.

Under this measure, if, prior to reapportionment, old District A had a regular (not a special) senatorial election in 2000 and would thus have a senator serving a two-year term that ran from 2000 to 2002, under the new reapportionment plan, the new District A (assuming that a majority of the permanent resident population in new District A resides in old District A or another district that had a regular senatorial election in 2000) will again be voting in the regular senatorial election in 2002. The senator elected to represent new District A, incumbent or newcomer, would serve a four-year term, running from 2002 to 2006. In the six-year period commencing with the 2000 regular election (the even-numbered year prior to the reapportionment year) and ending prior to the 2006 regular election, the majority of the permanent resident population of new District A will have had no more than two regular senate elections (in 2000 and 2002).

Conversely, if, prior to reapportionment, old District B had been served by a senator serving a four-year term that ran from 1998 to 2002, under the new reapportionment plan, the senator elected in the 2002 election to represent new District B (assuming that a majority of the permanent resident population in new District B resides in old District B or another district that did not have a regular senatorial election in 2000), whether an incumbent or newcomer, would serve a two-year term, running from 2002 to 2004. The winner of the following election held in 2004, whether an incumbent or newcomer, would then serve the usual four-year term for senators, running from 2004 to

2008. In the six-year period commencing with the 2000 regular election (the even-numbered year prior to the reapportionment year) and ending prior to the 2006 regular election, the majority of the permanent resident population of new District B will have had no more than two regular senate elections (in 2002 and 2004).

Your Committee finds that this measure maintains the existing staggered terms of senators treating incumbent senators and newly-elected senators equally with respect to the assignment of terms of office using the Reapportionment Commission and establishing criteria that consider the participation of the voters in each senatorial district. In this way, the proposed constitutional provision clarifies that a term of office attaches to a particular senate seat, rather than the individual elected to that seat.

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 S.B. No. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

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AVERY B. CHUMBLEY, Co-Chair

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MATTHEW M. MATSUNAGA, Co-Chair