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Intermediate Court of Appeals
CAAP-19-0000372
24-JUN-2019
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NO. CAAP-19-0000372

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF)	CIVIL	NO.	18-1-1376
HONOLULU AND COMMON CAUSE,)			
)			
Plaintiffs-Appellants,)	APPEAL FROM THE		
)	FINAL JUDGMENT, filed April 3, 2019		
vs)			
)			
STATE OF HAWAII,)	FIRST CIRCUIT COURT		
)			
Defendant-Appellee.)			
)	HONORABLE GARY W.B. CHANG		
)	JUDGE		

RECORD ON APPEAL
(PART 1 OF 2)

ROBERT BRIAN BLACK (7659)
LISA EMILY ENGBRETSSEN (10952)
CIVIL BEAT LAW CENTER FOR THE PUBLIC INTEREST
700 Bishop St., Suite 1701
Honolulu, HI 96813
Telephone: (808) 531-4000

Attorneys for Plaintiffs-Appellants
LEAGUE OF WOMEN VOTERS OF HONOLULU AND COMMON CAUSE

CLAIRE E. CONNORS (7936)

Attorney General of Hawaii

PATRICIA OHARA (3124)

ROBYN B. CHUN (3661)

Deputy Attorneys General

Department of the Attorney General, State of Hawaii

425 Queen St.

Honolulu, HI 96813

Telephone: (808) 586-0618

and

CLAIRE E. CONNORS (7936)

Attorney General of Hawaii

CLYDE J. WADSWORTH (8495)

Solicitor General

KIMBERLY TSUMOTO GUIDRY (7813)

First Deputy Solicitor General

Department of the Attorney General, State of Hawaii

425 Queen St.

Honolulu, HI 96813

Telephone: (808) 586-1500

Attorneys for Defendant-Appellee

STATE OF HAWAII

COLLEEN HANABUSA (2105)

3660 Waokanaka St.

Honolulu, HI 96817

Telephone: (808) 595-3388

Attorney for Amicus Curiae-Appellee

HAWAII STATE LEGISLATURE

INDEX

(To Record On Appeal

- LEAGUE OF WOMEN VOTERS OF
HONOLULU AND COMMON CAUSE,

Plaintiffs-Appellants,

vs

STATE OF HAWAII,

Defendant-Appellee.)

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DESIGNATION TO RECORD ON APPEAL

The imaged records of Civil No. 18-1-1376, First Circuit Court, State of Hawaii, herein, contains all scanned images of the original documents (except where noted) entered of record in said matter.

Of Note:

- 1 The HAJIS Case Summary contains the: 1) minutes; 2) dockets; and links to all documents of record from this appealed case.
- 2 The "Court Appearance Summary," as referenced in the HAJIS Case Summary, contains the minutes of the record.
- 3 The "Document Summary," as referenced in the HAJIS Case Summary, contains the docket of the record.
- 4 The record has been scanned in .PDF format and optical character recognition (OCR) technology was applied. OCR search and find accuracy may be based upon scanning and OCR software available to the Clerk's Office at time of scanning.

*** FOR INTERNAL USE ONLY ***

RUN DATE: 06-06-2019

HAJIS CASE SUMMARY SHEET

PAGE: 1

CASE NO: 1CC18-1-001376

INIT DATE: 09-05-2018

ORIG DIST:

CAUSE OF ACTION: OTHER CIVIL

AMOUNT:

COURT COST:

MILEAGE:

FEE:

PLAINTIFF(S): (PL) LEAGUE OF WOMEN VOTERS OF HONOLULU
(PL) COMMON CAUSE

DEFENDANT(S): (DF) STATE OF HAWAII

ATTORNEY(S) FOR PLAINTIFF(S):
(A7659) (PV) ROBERT BRIAN BLACK

ATTORNEY(S) FOR DEFENDANT(S):
(A3124) (AG) PATRICIA T OHARA

-----COURT APPEARANCE SUMMARY-----

APPEARANCE DATE: 09-05-2018 JUDGE ID: JGWBCHANG

ASSIGNED CIVIL CALENDAR

4/3/19 - FINAL JUDGMENT PROC'D.

5/2/19 - NOTICE OF APPEAL FILED WITH THE ICA.

APPEARANCE DATE: 11-13-2018 JUDGE ID: JGWBCHANG

DEFT STATE OF HAWAII'S MOTION FOR SUMMARY

JUDGMENT

(M. KATO) TO 12/19/18 AT 3:00 PM

*****MINUTE ORDER*****

PURSUANT TO THE STIPULATION AND ORDER TO
CONTINUE HEARING ON DEFT STATE OF HAWAII'S MOTION
FOR SUMMARY JUDGMENT FILED ON OCTOBER 9, 2018 AND
HEARING ON PLTFS' CROSS-MOTION FOR SUMMARY
JUDGMENT FILED ON OCTOBER 25, 2018, PROCESSED BY
THE FOURTEENTH DIVISION ON NOVEMBER 8, 2018, THE
HEARINGS SCHEDULED FOR NOVEMBER 13, 2018 AT 3:00
PM AND DECEMBER 5, 2018 AT 3:00 PM HAVE BOTH BEEN
RESCHEDULED TO DECEMBER 19, 2018 AT 3:00 PM.

APPEARANCE DATE: 12-05-2018 JUDGE ID: JGWBCHANG

PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT

(R. BLACK) TO 12/19/18 AT 3:00 PM

*****MINUTE ORDER*****

PURSUANT TO THE STIPULATION AND ORDER TO
CONTINUE HEARING ON DEFT STATE OF HAWAII'S MOTION
FOR SUMMARY JUDGMENT FILED ON OCTOBER 9, 2018 AND
HEARING ON PLTFS' CROSS-MOTION FOR SUMMARY
JUDGMENT FILED ON OCTOBER 25, 2018, PROCESSED BY

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INIT DATE: 09-05-2018

ORIG DIST:

THE FOURTEENTH DIVISION ON NOVEMBER 8, 2018, THE HEARINGS SCHEDULED FOR NOVEMBER 13, 2018 AT 3:00 PM AND DECEMBER 5, 2018 AT 3:00 PM HAVE BOTH BEEN RESCHEDULED TO DECEMBER 19, 2018 AT 3:00 PM.

APPEARANCE DATE: 12-05-2018 JUDGE ID: JGWBCHANG
STATUS CONFERENCE

- ROBERT BRIAN BLACK FOR PLTF LEAGUE OF WOMEN VOTERS OF HONOLULU AND COMMON CAUSE
- ROBYN B. CHUN FOR DEFT STATE OF HAWAII
- COLLEEN HANABUSA FOR HAWAII STATE LEGISLATURE BY TELEPHONE CONFERENCE

10:00 - 10:25 THE PARTIES DISCUSSED SCHEDULING CONCERNS REGARDING THE TWO CROSS-MOTIONS FOR SUMMARY JUDGMENT AND THE MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF, ALL OF WHICH ARE SCHEDULED FOR HEARING ON 12/19/2018 AT 3:00 P.M. IT WAS AGREED BY ALL THAT THE TWO CROSS-MOTIONS FOR SUMMARY JUDGMENT SHALL BE RESCHEDULED FOR HEARING ON 1/24/2019 AT 10:00 A.M. THE MOTION FOR LEAVE SHALL CONTINUE TO BE HEARD ON 12/19/2018 AT 3:00 P.M.

IF THE MOTION FOR LEAVE IS GRANTED, THE LEGISLATURE SHALL FILE ITS OPENING AMICUS BRIEF (20 PAGES MAXIMUM) BY OR BEFORE 12/27/2018. ANY RESPONSIVE BRIEF (20 PAGES MAXIMUM) SHALL BE FILED BY OR BEFORE 1/11/2019. THE LEGISLATURE'S REPLY BRIEF (10 PAGES MAXIMUM) SHALL BE FILED BY OR BEFORE 1/18/2019.

AT THE HEARING ON 12/19/2018, THE COURT WILL ADDRESS ALL ISSUES RELATING TO THE MOTION FOR LEAVE INCLUDING, BUT NOT LIMITED TO, WHETHER THE MOTION SHOULD BE GRANTED, AND, IF GRANTED, WHETHER THE LEGISLATURE WILL BE ALLOWED TO FILE A REPLY BRIEF, AND WHETHER THE LEGISLATURE WILL BE PERMITTED TO PARTICIPATE IN THE ORAL ARGUMENT AT THE HEARING ON THE CROSS-MOTIONS FOR SUMMARY JUDGMENT ON 1/24/2019.

THE BRIEFING SCHEDULE FOR THE CROSS-MOTIONS FOR SUMMARY JUDGMENT SHALL REMAIN THE SAME AS IF THE CROSS-MOTIONS FOR SUMMARY JUDGMENT WERE COMING ON FOR HEARING 12/19/2018. THE PARTIES TO THE CROSS-MOTIONS FOR SUMMARY JUDGMENT MAY MUTUALLY AGREE TO MODIFY THE BRIEFING SCHEDULE WITHOUT LEAVE OF COURT.

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CASE NO: 1CC18-1-001376

INIT DATE: 09-05-2018

ORIG DIST:

APPEARANCE DATE: 12-19-2018 JUDGE ID: JGWBCHANG

1) DEFT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT

(R. CHUN) (FR 11/13/18 AT 3:00 PM)

2) PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT

(R. BLACK) (FR 12/5/18 AT 3:00 PM)

3) MOT FOR LEAVE TO FILE A MEMO ON BEHALF OF THE HAWAII STATE LEGISLATURE AS AMICUS CURIAE IN SUPPORT OF DEFT STATE OF HI'S MOT FOR SUMMARY JGMT FILED ON 10/9/18 & IN OPPOSITION TO PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT FILED ON 10/25/18 (C. HANABUSA)

3A) DEFT STATE OF HAWAII JOINDER IN HAWAII STATE LEGISLATURE'S MOTION FOR LEAVE TO FILE A MEMO ON BEHALF OF THE HAWAII STATE LEGISLATURE AS AMICUS CURIAE IN SUPPORT OF DEFT STATE OF HI'S MOTION FOR SUMMARY JGMT FILED ON 10/9/18 AND IN OPPOSITION TO PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT FILED ON 10/25/18

(R. CHUN)

***** MINUTE ORDER 12/6/18 *****

RE MOTIONS 1) AND 2), BY ORDER OF THE COURT AND AGREEMENT AMONGST THE PARTIES AT THE STATUS CONFERENCE HELD ON 12/5/2018 AT 10:00 A.M., THE TWO CROSS-MOTIONS FOR SUMMARY JUDGMENT SCHEDULED FOR HEARING ON WEDNESDAY, 12/19/2018 AT 3:00 P.M. HAS BEEN RESCHEDULED TO THURSDAY, 1/24/2019 AT 10:00 A.M.

IT WAS ALSO AGREED AT THE 12/5/2018 STATUS CONFERENCE THAT THE BRIEFING SCHEDULE FOR THE CROSS-MOTIONS FOR SUMMARY JUDGMENT SHALL REMAIN THE SAME AS IF THE CROSS-MOTIONS FOR SUMMARY JUDGMENT WERE COMING ON FOR HEARING 12/19/2018. THE PARTIES TO THE CROSS-MOTIONS FOR SUMMARY JUDGMENT MAY MUTUALLY AGREE TO MODIFY THE BRIEFING SCHEDULE WITHOUT LEAVE OF COURT.

THE MOTION FOR LEAVE TO FILE AMICUS CURIAE AND DEFT STATE OF HAWAII'S JOINDER SHALL CONTINUE TO BE HEARD ON WEDNESDAY, 12/19/2018 AT 3:00 P.M.

COPIES OF THIS MINUTE ORDER MAILED TO COUNSEL OF RECORD VIA U.S. MAIL, POSTAGE PREPAID.

*** COURT REPORTER: A. HAUNANI HO ***

- ROBERT BRIAN BLACK AND LISA EMILY ENGBRETSSEN FOR PLTFS LEAGUE OF WOMEN VOTERS OF HONOLULU AND COMMON CAUSE

- ROBYN B. CHUN FOR DEFT STATE OF HAWAII

- COLLEEN HANABUSA FOR AMICUS CURIAE HAWAII STATE LEGISLATURE

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CASE NO: 1CC18-1-001376

INIT DATE: 09-05-2018

ORIG DIST:

3:21 CASE CALLED, APPEARANCES NOTED.
MS. HANABUSA, MR. BLACK AND MS. CHUN PRESENTED
ARGUMENT.

4:21 BASED ON THE COMMENTS OF COUNSEL AS WELL AS
THE BRIEFS, THE COURT FOUND GOOD CAUSE AND GRANTED
HAWAII STATE LEGISLATURE'S MOTION FOR LEAVE TO
FILE A MEMORANDUM ON BEHALF OF THE HAWAII STATE
LEGISLATURE AS AMICUS CURIAE IN SUPPORT OF
DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY
JUDGMENT FILED ON OCTOBER 9, 2018 AND IN
OPPOSITION TO PLAINTIFFS' CROSS-MOTION FOR SUMMARY
JUDGMENT FILED ON OCTOBER 25, 2018. COURT STATED
THAT AN AMICUS CURIAE BRIEF FROM THE LEGISLATURE
MAY BE HELPFUL IN EDUCATING THIS COURT REGARDING
THE PROCESS THAT ACT 84 WENT THRU AND COURT WAS
PARTICULAR IN SAYING ACT 84 BECAUSE IT WAS
REPRESENTED BY PLTFS THAT THIS CASE IS ABOUT ACT
84 ONLY. ASSUMING THAT THE COMPLAINT IS
(SEE NEXT SEQUENCE FOR ADDITIONAL MINUTES)

APPEARANCE DATE: 12-19-2018 JUDGE ID: JGWBCHANG
ADDITIONAL MINUTES

(ADDITIONAL MINUTES FROM PREVIOUS SEQUENCE)
RESTRICTED TO THAT ACT, THEN THAT IS WHAT THIS
COURT WOULD BE INTERESTED IN. THE AMICUS CURIAE
BRIEF SHOULD NOT BE DUPLICATIVE TO DEFT STATE OF
HAWAII'S BRIEF.

COURT IMPOSED THE FOLLOWING BRIEFING SCHEDULE:
AMICUS CURIAE BRIEF SHALL BE LIMITED TO NO MORE
THAN 20 PAGES AND DUE ON OR BEFORE 12/27/2018;
PLTFS' RESPONSIVE BRIEF SHALL BE LIMITED TO NO
MORE THAN 20 PAGES AND DUE ON OR BEFORE 1/11/2019
AND HAWAII STATE LEGISLATURE'S REPLY BRIEF SHALL
BE LIMITED TO NO MORE THAN 10 PAGES AND DUE ON OR
BEFORE 1/18/2019.

WITH RESPECT TO ARGUMENT AT THE HEARING ON
1/24/2019 ON THE CROSS MOTIONS FOR SUMMARY
JUDGMENT, THIS COURT WILL TIME THE ARGUMENT OF THE
PLTFS AND HOWEVER LONG THE PLTFS TAKE, THE COURT
WILL AFFORD DEFT STATE OF HAWAII EQUAL AMOUNT OF
TIME FOR ARGUMENT. IF DEFT STATE OF HAWAII CHOOSES
TO SHARE THAT TIME WITH COUNSEL FOR THE
LEGISLATURE, THEN DEFT STATE OF HAWAII MAY DO SO.
THE COMBINED TIME OF ARGUMENT FOR DEFT STATE OF
HAWAII AND LEGISLATURE CANNOT EXCEED THE TIME OF
THE OPENING ARGUMENT OF THE PLTFS. COURT DID NOT
PLACE ANY RESTRICTION ON PLTFS' TIME FOR ARGUMENT.
MS. HANABUSA TO PREPARE A DETAILED ORDER.

COURT CONFIRMED THAT DEFT STATE OF HAWAII IS NOT

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ORIG DIST:

PERMITTED TO FILE A BRIEF.

DEFT STATE OF HAWAII'S JOINDER IS GRANTED IN THE IDENTICAL FASHION. MS. CHUN TO PREPARE A DETAILED ORDER GRANTING DEFT STATE OF HAWAII'S JOINDER.

4:30 CONCLUDED.

APPEARANCE DATE: 01-24-2019 JUDGE ID: JGWBCHANG

1) DEFT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT

(R. CHUN) (FR 11/13/18; 12/19/18)

2) PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT

(R. BLACK) (FR 12/5/18; 12/19/18)

***** MINUTE ORDER 1/10/2019 *****

BY ORDER OF THE COURT, THE HEARING ON 1) DEFT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT FILED ON 10/9/2018 AND 2) PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT FILED ON 10/25/2018 SCHEDULED TO BE HEARD ON THURSDAY, JANUARY 24, 2019 AT 10:00 A.M. HAS BEEN RESCHEDULED TO THE SAME DATE, THURSDAY, JANUARY 24, 2019 AT 2:00 P.M.

PARTIES NOTIFIED BY PHONE ON 1/10/2019 AND COPIES OF THIS MINUTE ORDER MAILED TO COUNSEL FOR ALL PARTIES VIA U.S. MAIL, POSTAGE PREPAID.

APPEARANCE DATE: 01-24-2019 JUDGE ID: JGWBCHANG

1) DEFT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT (R. CHUN) (FR 11/13/18; 12/19/18;

1/24/19 AT 10AM)

2) PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT

(R. BLACK) (FR 12/5/18; 12/19/18; 1/24/19 AT 10AM)

*****COURT REPORTER: PHYLLIS TSUKAYAMA*****

- ROBERT BRIAN BLACK AND LISA EMILY ENGBRETSSEN FOR PLTFS LEAGUE OF WOMEN VOTERS HONOLULU AND COMMON CAUSE

- ROBYN B. CHUN FOR DEFT STATE OF HAWAII

- COLLEEN HANABUSA FOR HAWAII STATE LEGISLATURE AS AMICUS CURIAE

2:23 CASE CALLED, APPEARANCES NOTED.

MR. BLACK, MS. CHUN AND MS. HANABUSA PRESENTED THEIR CASE.

MR. BLACK AND MS. CHUN WAIVED CLOSING REMARKS.

MS. HANABUSA PROVIDED HER CLOSING STATEMENT.

3:34 THE COURT FOUND THAT THERE WERE NO GENUINE ISSUES OF MATERIAL FACT AND THAT THE CASE WAS RIPE FOR THE COURT TO DISPOSE OF IT BY SUMMARY JUDGMENT AS THERE ARE ONLY REMAINING QUESTIONS OF LAW.

ON THE QUESTION OF JUSTICIABILITY, THE COURT WAS UNABLE TO FIND THAT THERE WAS ANY VIOLATION OF THE CONSTITUTION WITH RESPECT TO THE THREE READINGS. THE COURT RELIED ON THE MASON'S MANUAL, SECTIONS 617 AND 722, TO ARRIVE AT THE CONCLUSIONS THAT THE PROCEDURE OF THE LEGISLATURE IS SUCH THAT IF A REPLACED AND SUBSTITUTED BILL IS ADOPTED, THEN THE LEGISLATURE IS NOT REQUIRED TO CONDUCT THREE MORE READINGS BECAUSE THEY HAVE ALREADY HAD IN EACH HOUSE, THE THREE READINGS, AND THAT SUFFICES TO MEET THE REQUIREMENTS OF THE CONSTITUTIONAL MANDATE.

ON THE QUESTION OF THE TITLE OF THE BILL, THE COURT CONCLUDED THAT THE CHANGE FROM RECIDIVISM TO HURRICANE PREPAREDNESS WAS GERMANE TO THE TITLE AND THE SUBJECT OF THE ORIGINAL SENATE BILL NO. 2858. THERE WAS NO CONSTITUTIONAL VIOLATION BASED ON THE TITLE ISSUE. WHEN THE LEGISLATURE IN THE CASE AT BAR CHANGED THE TOPIC OF THE BILL OR THE LANGUAGE OF THE BILL FROM RECIDIVISM TO HURRICANE READINESS, THAT WAS STILL WITHIN THE AMBIENT OF PUBLIC SAFETY. THE COURT WAS UNABLE TO FIND ANY LEGAL AUTHORITY TO GIVE THIS COURT GUIDANCE TO OVERRULE THAT PROCESS AND TO FIND THAT, THAT WAS AN UNCONSTITUTIONAL CHANGE.

THE COURT HAD NO ISSUE REGARDING PLTF'S STANDING. THEY ARE AN ORGANIZATION THAT IS DEDICATED TO ENSURE INTEGRITY IN THE LEGISLATIVE PROCESS, AND THAT IS EXACTLY WHAT THIS CASE IS ABOUT.

THE SEPARATION OF POWERS ARGUMENT IS REJECTED.
(SEE NEXT PHASE FOR ADDITIONAL MINUTES)

APPEARANCE DATE: 01-24-2019 JUDGE ID: JGWBCHANG
ADDITIONAL MINUTES

(ADDITIONAL MINUTES FROM PRIOR SEQUENCE)
AS THE COURT INDICATED, THIS COURT HAS THE POWER TO ADJUDICATE CONSTITUTIONAL VALIDITY OF STATUTORY ENACTMENTS.

FOR THESE AND ANY OTHER GOOD CAUSE SHOWN IN THE RECORD, REGARDING 1) THE COURT RESPECTFULLY GRANTED DEFT'S MOTION FOR SUMMARY JUDGMENT AND REGARDING 2) THE COURT RESPECTFULLY DENIED PLTF'S MOTION FOR SUMMARY JUDGMENT.

COUNSEL FOR THE DEFT TO PREPARE TWO SEPARATE ORDERS, ONE GRANTING THE DEFT'S MOTION AND ONE DENYING THE PLTF'S MOTION. THE COURT REQUESTED THAT THE ORDERS INCLUDE THAT THERE ARE NO GENUINE ISSUES OF MATERIAL FACT AND THAT THE APPROPRIATE

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ORIG DIST:

CONCLUSIONS BE STATED WITH RESPECT TO ENTITLEMENT
TO JUDGMENT AS A MATTER OF LAW, THAT THE STATE MET
ITS BURDEN, AND THAT THE PLTFS FAILED TO MEET ITS
BURDEN. THE COURT ELECTED NOT TO MAKE FINDINGS OF
FACT OR CONCLUSIONS OF LAW IN THE ORDER DENYING,
BECAUSE THERE ARE NO GENUINE ISSUES OF MATERIAL
FACT.

3:42 CONCLUDED.

-----COURT DOCUMENT SUMMARY-----

FILING DATE: 09-05-2018 FILING TIME: 9:29 A.M. DOC NO: 00000000-00000000
CIVIL INFORMATION SHEET

FILING DATE: 09-05-2018 FILING TIME: 9:29 A.M. DOC NO: 00000000-00000000
COMPLAINT; SUMMONS
(CASE ASSIGNED TO JG GWB CHANG)

FILING DATE: 09-11-2018 FILING TIME: 10:11 A.M. DOC NO: 00000000-00000000
RETURN AND ACKNOWLEDGMENT OF SERVICE
(SRVD COMP ETC 9/6/18-STATE OF HAWAII)

FILING DATE: 09-26-2018 FILING TIME: 3:39 P.M. DOC NO: 00000000-00000000
DEFT STATE OF HAWAII'S ANSWER TO COMPLAINT; C/S

FILING DATE: 10-09-2018 FILING TIME: 9:54 A.M. DOC NO: 00000000-00000000
DEFT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT
DEC/RB CHUN; EXHS A-V; N/H; C/S

FILING DATE: 10-25-2018 FILING TIME: 10:56 A.M. DOC NO: 00000000-00000000
PLTFS CROSS-MOTION FOR SUMMARY JUDGMENT; COMBINED
MEMO/LAW/SUPP & IN OPPOSITION TO DEFT'S MOTION
SUMMARY JUDGMENT; DEC/RB BLACK; EXHS 1-23; N/H;
& C/S

FILING DATE: 11-07-2018 FILING TIME: 3:02 P.M. DOC NO: 00000000-00000000
DEFT STATE OF HAWAII'S REPLY TO PLTFS MEMORANDUM
IN OPPOSITION TO DEFT STATE OF HAWAII'S MOTION
FOR SUMMARY JUDGMENT; C/S

FILING DATE: 11-09-2018 FILING TIME: 9:17 A.M. DOC NO: 00000000-00000000
STIPULATION TO CONTINUE HEARING ON DEFT STATE
OF HAWAII'S MOTION FOR SUMMARY JUDGMENT FILED ON
OCTOBER 9, 2018 & HEARING ON PLTFS CROSS-MOTION
FOR SUMMARY JUDGMENT FILED ON OCTOBER 25, 2018;
C/S

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CASE NO: 1CC18-1-001376

INIT DATE: 09-05-2018

ORIG DIST:

FILING DATE: 11-27-2018 FILING TIME: 3:10 P.M. DOC NO: 00000000-00000000
MOTION FOR LEAVE TO FILE A MEMORANDUM OF BEHALF
OF THE HAWAII STATE LEGISLATURE AS AMICUS CURIAE
IN SUPPORT OF DEFT STATE OF HAWAII'S MOTION FOR
SUMMARY JUDGMENT FILED ON OCTOBER 9, 2018 & IN
OPPOSITION TO PLTFS CROSS-MOTION FOR SUMMARY
JUDGMENT FILED ON OCTOBER 25, 2018; MEMO/SUPP;
EXH A; N/H; C/S

~~FILING DATE: 12-06-2018 FILING TIME: 8:27 A.M. DOC NO: 00000000-00000000
DEFT STATE OF HAWAII'S JOINDER IN HAWAII STATE
LEGISLATURE'S MOTION FOR LEAVE TO FILE A MEMORAN-
DUM ON BEHALF OF THE HAWAII STATE LEGISLATURE
AS AMICUS CURIAE IN SUPPORT OF DEFT STATE OF
HAWAII'S MOTION FOR SUMMARY JUDGMENT FILED ON
OCTOBER 9, 2018 & IN OPPOSITION TO PLTFS CROSS-
MOTION FOR SUMMARY JUDGMENT FILED ON OCTOBER 25,
2018; C/S~~

~~FILING DATE: 12-11-2018 FILING TIME: 11:24 A.M. DOC NO: 00000000-00000000
PLTFS OPPOSITION TO MOTION FOR LEAVE TO FILE
A MEMORANDUM ON BEHALF OF THE HAWAII STATE
LEGISLATURE AS AMICUS CURIAE & C/S~~

~~FILING DATE: 12-14-2018 FILING TIME: 3:43 P.M. DOC NO: 00000000-00000000
REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE A
MEMORANDUM OF BEHALF OF THE HAWAII STATE LEGISLA-
TURE AS AMICUS CURIAE IN SUPPORT OF DEFT STATE OF
HAWAII'S MOTION FOR SUMMARY JUDGMENT FILED ON
OCTOBER 9, 2018 & IN OPPOSITION TO PLTFS CROSS-
MOTION FOR SUMMARY JUDGMENT FILED ON OCTOBER 25
2018; DEC/C HANABUSA; EXH 1; C/S~~

~~FILING DATE: 12-14-2018 FILING TIME: 3:30 P.M. DOC NO: 00000000-00000000
DEFT STATE OF HAWAII'S REPLY TO PLTFS OPPOSITION
TO MOTION FOR LEAVE TO FILE A MEMORANDUM ON
BEHALF OF THE HAWAII STATE LEGISLATURE AS AMICUS
CURIAE; C/S~~

~~FILING DATE: 12-21-2018 FILING TIME: 3:46 P.M. DOC NO: 00000000-00000000
DEFT STAT OF HAWAII'S MEMORANDUM IN OPPOSITION
TO PLTFS' CROSS-MOTION FOR SUMMARY JUDGMENT FILED
ON 10/25/2018; DEC/R B CHUN, EXHS W-Y; C/S~~

ROBERT BRIAN BLACK 7659
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
brian@civilbeatlawcenter.org
Telephone: (808) 531-4000
Facsimile: (808) 380-3580

*Attorneys for Plaintiffs
League of Women Voters of Honolulu and
Common Cause*

PKN
FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2018 SEP -5 AM 9:29

L. KUBO
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

18-1-1376-09

GWBC

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. _____
(Other Civil Action)

COMPLAINT; SUMMONS

JUDGE: NONE

TRIAL DATE: NONE

COMPLAINT

Plaintiffs League of Women Voters of Honolulu and Common Cause
(collectively, Plaintiffs), for their Complaint against Defendant State of Hawai'i (State),
allege as follows:

1. "Gut and replace" legislation is abhorrent to basic principles of democracy
and unconstitutional under article III, sections 14 and 15 of the Hawai'i Constitution.
The public must be able to reliably identify and follow potential changes to the law
being considered by the State Legislature. But deceptive practices that radically change



bills shortly before the final vote deny the public any meaningful voice in the legislative process.

2. In its most common iteration, “gut and replace” concerns a bill that has progressed to late in the legislative process and is stripped of all content to be replaced with an entirely different topic that has no rational connection to the original bill. The bill becomes unrecognizable.

3. Hastily or stealthily enacting laws unconstitutionally deprives the public of adequate notice regarding legislation that will impact everyone in the State. And it deprives legislators of adequate notice and time to thoroughly review the consequences of proposed legislation prior to making a decision.

4. This action seeks to enforce the constitutional provisions that prohibit the State from using processes that avoid input from the electorate into how the people of Hawai`i should be governed.

5. Citizens elect and grant authority to legislators to pass laws for the public good. Democracy is a citizen-based process that depends on the will of the people as expressed in the Constitution. However good their intentions, legislators must respect the role of ordinary citizens in the legislative process. Gut and replace legislation reflects a fundamentally undemocratic disregard for the public.

PARTIES

6. The League of Women Voters of Honolulu is a nonpartisan Hawai`i nonprofit corporation that works to improve government function and impact public policies through citizen education and advocacy.

7. Common Cause is a national nonprofit grassroots organization dedicated to upholding the core values of American democracy, that is incorporated and based in Washington D.C. with a presence in thirty states, including Common Cause Hawai'i.

8. Defendant is the government for the State of Hawai'i as recognized in the Hawai'i Constitution.

JURISDICTION AND VENUE

9. The court has jurisdiction over this claim for declaratory relief because this action arises under the Constitution of the State of Hawai'i, Article III, sections 14 and 15; HRS § 632-1; and HRS § 603-21.5(a)(3).

10. Venue is proper in this court pursuant to the Constitution of the State of Hawai'i, Article III sections 14 and 15 and HRS § 603-36(5) for the following reasons: the prohibited act occurred and the claim for relief arose in this circuit.

FACTUAL BACKGROUND

11. The Constitution of the State of Hawai'i provides minimum procedures for enacting legislation.

12. Article III, section 14 of the Constitution of the State of Hawai'i provides in relevant part: "Each law shall embrace but one subject, which shall be expressed in its title."

13. Article III, section 15 of the Constitution of the State of Hawai'i provides in relevant part: "No bill shall become law unless it shall pass three readings in each house on separate days."

14. On January 24, 2018, during the 2018 legislative session, the Hawai'i Senate introduced Senate Bill 2858 (S.B. 2858), entitled simply "A bill for an act relating to public safety."

15. As originally introduced, S.B. 2858 required the Department of Public Safety to prepare an annual report with performance indicators regarding efforts to improve recidivism rates and inmate rehabilitation.

16. On January 24, 2018, S.B. 2858 passed its first reading in the Senate.

17. On February 6, 2018, the Senate Committee on Public Safety, Intergovernmental, and Military Affairs (PSM) recommended that S.B. 2858 be passed with amendments to include information about pretrial detainees in the Department's annual report.

18. On February 9, 2018, PSM reported to the Senate its proposed amendments, and S.B. 2858 passed its second reading in the Senate as amended (S.D. 1).

19. On February 23, 2018, the Senate Committee on Ways and Means (WAM) recommended that S.B. 2858 be passed with clarifying amendments about the Department's annual reports.

20. On March 6, 2018, WAM reported to the Senate its proposed amendments, and S.B. 2858 passed its third reading in the Senate as amended (S.D. 2).

21. S.B. 2858—as it related to reporting about community reentry by individuals in the custody of the Department of Public Safety—was read three times in the Senate with germane amendments after two committee hearings.

22. On March 15, 2018 the House Committee on Public Safety (PBS) recommended that the content of the bill be changed completely while keeping the title of the bill unchanged.

23. Instead of a bill concerning individuals held by the Department of Public Safety, PBS recommended a bill requiring that the design of new State buildings include hurricane shelter space; PBS removed all reference to the subject matter of the original bill, leaving only the original bill's title.

24. On March 21, 2018—the thirty-fifth day of the sixty day legislative session—the House had its second reading on S.B. 2858 and amended the bill according to PBS's recommendation, gutting and replacing the contents with something completely different (H.D.1).

25. In effect, the hurricane shelter version of S.B. 2858 had its first reading in the House on March 21.

26. On March 28, 2018, the House Committee on Finance recommended that the measure be passed, as it pertained to hurricane shelters, unamended.

27. On April 6, 2018, S.B. 2858 passed its third reading in the House, only the second reading for the hurricane shelter version of the bill.

28. On April 26, 2018, the Conference Committee recommended that the hurricane shelter version of S.B. 2858 be passed with amendments to only require that the State consider hurricane resistance criteria in the design of new schools (C.D. 1).

29. On May 1, 2018, the hurricane shelter version of S.B. 2858 passed its first reading in the Senate and its third reading in the House, with both chambers adopting the recommendation of the Conference Committee.

30. The May 1, 2018 reading was the only Senate reading of the bill after it had been fundamentally changed to pertain to hurricane shelters rather than reporting from the Department of Public Safety.

31. On July 5, 2018, S.B. 2858 became law, when signed by the governor, as Act 84.

COUNT I
"RELATING TO PUBLIC SAFETY" IS AN
UNCONSTITUTIONALLY BROAD TITLE FOR LEGISLATION

32. Article III, section 14 of the Constitution of the State of Hawai'i provides in relevant part: "Each law shall embrace but one subject, which shall be expressed in its title."

33. The purpose of this provision is to prevent hodge-podge or logrolling legislation; to prevent surprise or fraud upon the legislature by means of provisions in the bills of which the title give no intimation, and which might therefore be overlooked and carelessly and unintentionally adopted; and to fairly apprise the people through publication of legislative proceedings of the subjects of legislation that are being considered, in order that they may have the opportunity of being heard.

34. The title of a bill should not be so general that it tends to obscure the contents of the act.

35. The public and lawmakers must be able to rely on the title of bills to assess generally the proposed law's impact and any interest in the bill.

36. The title of a bill thus must be specific enough so as to provide notice of the general contents of the legislation.

37. The title "Relating to Public Safety" conveys nothing about the bill's contents.

38. The title "Relating to Public Safety" obscures the actual content of the legislation it proposes and is misleading.

39. Plaintiffs seek an order declaring Act 84 void because the title to S.B. 2858 does not satisfy the subject-in-title requirement of article III, section 14 of the Hawai'i Constitution.

COUNT II
THE HURRICANE SHELTER VERSION OF S.B. 2858
DID NOT HAVE THREE READINGS IN THE SENATE

40. Article III, section 15 of the Constitution of the State of Hawai'i provides in relevant part: "No bill shall become law unless it shall pass three readings in each house on separate days."

41. The three readings requirement provides the public and lawmakers adequate opportunity to assess the consequences of and comment on proposed legislation.

42. The purpose of this provision is to provide time for informed and meaningful deliberation on legislative proposals so the text of proposed legislation may be refined and modified and so the public interest is protected.

43. The hurricane shelter version of S.B. 2858 only had one reading in the Senate.

44. Enacting laws that bear no resemblance—other than title—to the bill as passed by the originating chamber completely eviscerates the three reading requirement.

45. Plaintiffs seek an order declaring Act 84 void because after the non-germane hurricane shelter amendments in the House, S.B. 2858 did not have the required three readings in the Senate under article III, section 15 of the Hawai'i Constitution.

DEMAND FOR RELIEF


Based on the foregoing, Plaintiffs respectfully request that this court:

A. Enter an order declaring that (1) the process for adopting Act 84 was unconstitutional; and (2) Act 84 is void.

B. Grant such other and further relief as the court deems reasonable and just.

DATED: Honolulu, Hawai'i, September 5, 2018


ROBERT BRIAN BLACK
Attorneys for Plaintiffs

STATE OF HAWAII CIRCUIT COURT OF THE FIRST CIRCUIT	SUMMONS TO ANSWER CIVIL COMPLAINT	CASE NUMBER 18-1-1376-09
PLAINTIFF, LEAGUE OF WOMEN VOTERS OF HONOLULU and COMMON CAUSE	VS. DEFENDANT, STATE OF HAWAII	
PLAINTIFF'S ADDRESS (NAME, ADDRESS, TEL. NO.) Robert Brian Black Civil Beat Law Center for the Public Interest 700 Bishop Street, Suite 1701 Honolulu, HI 96813 (808) 531-4000		
<p>TO THE ABOVE-NAMED DEFENDANT(S)</p> <p>You are hereby summoned and required to file with the court and serve upon Robert Brian Black</p> <p>plaintiff's attorney, whose address is stated above, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the date of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.</p> <p>THIS SUMMONS SHALL NOT BE PERSONALLY DELIVERED BETWEEN 10:00 P.M. AND 6:00 A.M. ON PREMISES NOT OPEN TO THE GENERAL PUBLIC, UNLESS A JUDGE OF THE ABOVE-ENTITLED COURT PERMITS, IN WRITING ON THIS SUMMONS, PERSONAL DELIVERY DURING THOSE HOURS.</p> <p>A FAILURE TO OBEY THIS SUMMONS MAY RESULT IN AN ENTRY OF DEFAULT AND DEFAULT JUDGMENT AGAINST THE DISOBEYING PERSON OR PARTY.</p>		
DATE ISSUED SEP 05 2018	CLERK 	
I do hereby certify that this is full, true, and correct copy of the original on file in this office	Circuit Court Clerk	



In accordance with the Americans with Disabilities Act and other applicable state and federal laws, if you require a reasonable accommodation for a disability, please contact the ADA Coordinator at the First Circuit Court Administration Office at PHONE NO. 539-4333, FAX 539-4322, or TTY 539-4853, at least ten (10) working days prior to your hearing or appointment date.

STATE OF HAWAII
CIRCUIT COURT OF THE
FIRST CIRCUIT

RETURN AND ACKNOWLEDGMENT
OF SERVICE

CASE NUMBER CIVIL #
18-1-1376-09 GWBC

LEAGUE OF WOMEN VOTERS OF HONOLULU and
COMMON CAUSE

STATE OF HAWAII

DOCUMENTS SERVED: (1) COMPLAINT with Summons; (2) Civil Information Sheet

I, Sheriff/Police Officer of the State of Hawaii do hereby certify that I received a certified copy of the documents listed above and that I served the same on STATE OF HAWAII

on 9-6-18 at 10:34am (name of party) at 425 QUEEN ST.
(date) (time)
HONOLULU, HI 96813 (address) within the State of Hawaii as follows:

☐ PERSONAL: By delivering to and leaving with _____, personally.

☐ SUBSTITUTE: [HRCP 4(d) (1) (A)] After due and diligent search and inquiry, I served above-named defendant through _____, a person of suitable age and discretion then residing at said party's usual place of abode, since the defendant could not be found.

☐ SUBSTITUTE: [HRCP 4(d) (1) (B)] I served above-named defendant through _____, authorized agent to receive service of process for said defendant.

☒ BUSINESS/CORPORATION/GOVERNMENTAL ENTITY: On STATE OF HAWAII (name of business/corp/entity)
by serving through W. KAINA ANDONG (name of person served)
, who is the DEPUTY ATTORNEY GENERAL (position/title) and authorized agent of said Business/Corporation/Governmental Entity.

☐ GARNISHMENT: I served _____ through _____ (name of garnishee)
_____ who is authorized to accept service for the above-named garnishee. (name of person served)

☐ NOT FOUND: After due and diligent search and inquiry, I am unable to find _____ (name of party)

Attorney (Name, I.D. No., Address, Phone)
Robert Brian Black (7659)
700 Bishop Street, Suite 1701
Honolulu, HI 96813
(808) 531-4000

Date:

Sheriff/Police Officer (type or print)

Signature

9-6-18

MAE Yoro

naey

CLERK

ANAYA

2018 SEP 11 AM 10:11

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE: IN _____, HAWAII	NOTARY PUBLIC'S SIGNATURE: STATE OF HAWAII	MY COMMISSION EXPIRES:
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ACKNOWLEDGMENT OF SERVICE

<u>W.M. A.</u> (signature of person served)	<u>9/6/18</u> (date)	<u>10:34</u> (time)
<u>For State of Hawaii</u>		
W. KAINA AWONG		

RUSSELL A. SUZUKI 2162
Attorney General

PATRICIA OHARA 3124
ROBYN B. CHUN 3661
Deputy Attorneys General
Department of the Attorney General,
State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Telephone: (808) 586-0618
Facsimile: (808) 586-1372
Email: robyn.b.chun@hawaii.gov

Attorneys for Defendant
STATE OF HAWAI'I

2018 SEP 26 PM 3:39

K. Wynn

CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

DEFENDANT STATE OF HAWAI'I'S
ANSWER TO COMPLAINT;
CERTIFICATE OF SERVICE

DEFENDANT STATE OF HAWAI'I'S ANSWER TO COMPLAINT

Defendant State of Hawai'i (the "State") through Russell A. Suzuki, Attorney General, and his undersigned deputies, answers the Complaint filed herein on September 5, 2018 as follows:

1. The State admits that the public is entitled to follow legislation pending before the Legislature but denies all remaining allegations in paragraph 1 of the Complaint.

2. The allegations set forth in paragraph 2 of the Complaint appear to be general statements of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies those allegations.

3. The allegations set forth in paragraph 3 of the Complaint appear to be general statements of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies those allegations.

4. With respect to the allegations set forth in paragraph 4 of the Complaint, the Complaint speaks for itself and on this basis, the State denies those allegations.

5. The allegations set forth in paragraph 5 of the Complaint appear to be general statements of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies those allegations.

6. The State is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 6 of the Complaint and on this basis, denies those allegations.

7. The State is without knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 7 of the Complaint and on this basis, denies those allegations.

8. The State admits the allegation in paragraph 8 of the Complaint.

9. The State denies the allegation in paragraph 9 of the Complaint.

10. The State denies the allegation in paragraph 10 of the Complaint.

11. With respect to the allegation set forth in paragraph 11 of the Complaint, the State admits that the Hawai'i Constitution includes provisions that pertain to legislation.

12. The State admits the allegations in paragraph 12 of the Complaint.

13. The State admits the allegations in paragraph 13 of the Complaint.

14. The State admits the allegations in paragraph 14 of the Complaint.

15. The State admits the allegations in paragraph 15 of the Complaint.

16. The State admits the allegations in paragraph 16 of the Complaint.

17. The State admits the allegations in paragraph 17 of the Complaint.

18. The State admits the allegations in paragraph 18 of the Complaint.

19. The State admits the allegations in paragraph 19 of the Complaint.

20. The State admits the allegations in paragraph 20 of the Complaint.

21. The State admits the allegations in paragraph 21 of the Complaint.

22. With respect to the allegations in paragraph 22 of the Complaint, the State admits the House recommended changes be made to Senate Bill No. 2858 and denies any remaining allegations.

23. With respect to the allegations in paragraph 23 of the Complaint, the State admits that changes were made to Senate Bill No. 2858 and denies any remaining allegations.

24. With respect to the allegations in paragraph 24 of the Complaint, the State admits that changes were made to Senate Bill No. 2858 and denies any remaining allegations.

25. With respect to the allegations in paragraph 25 of the Complaint, the State admits that Senate Bill No. 2858 was heard in the House on March 21, 2018.

26. The state admits the allegation in paragraph 26 of the Complaint.

27. With respect to the allegations in paragraph 27 of the Complaint, the States admits that Senate Bill No. 2858 passed third reading in the House and denies any remaining allegations.

28. The State admits the allegations in paragraph 28 of the Complaint.

29. With respect to the allegations in paragraph 29 of the Complaint, the State admits that Senate Bill No. 2858 passed final reading in the House and in the Senate on May 1, 2018 and denies any remaining allegations.

30. With respect to the allegations in paragraph 30 of the Complaint, the State admits that Senate Bill No. 2858 passed final reading in the House and in the Senate on May 1, 2018 and denies any remaining allegations.

31. The State admits the allegation in paragraph 31 of the Complaint.

32. The State admits the allegation in paragraph 32 of the Complaint.

33. The allegations set forth in paragraph 33 of the Complaint appear to be general statements of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies those allegations.

34. The allegation set forth in paragraph 34 of the Complaint appears to be a general statement of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies those allegations.

35. The allegation set forth in paragraph 35 of the Complaint appears to be a general statement of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies those allegations.

36. The allegation set forth in paragraph 35 of the Complaint appears to be a general statement of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies that allegation.

37. The State denies the allegation in paragraph 37 of the Complaint.

38. The State denies the allegation in paragraph 38 of the Complaint.

39. With respect to the allegation in paragraph 39 of the Complaint, the Complaint speaks for itself and on this basis, the State denies that allegation.

40. The State admits the allegation in paragraph 40 of the Complaint.

41. The allegation set forth in paragraph 41 of the Complaint appears to be a general statement of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies that allegation.

42. The allegation set forth in paragraph 42 of the Complaint appears to be a general statement of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies that allegation.

43. The State denies the allegation in paragraph 43 of the Complaint.

44. The allegation set forth in paragraph 44 of the Complaint appears to be a general statement of opinion to which no response is required, however, to the extent that Plaintiffs allege that the State has acted improperly, the State denies that allegation.

45. With respect to the allegations set forth in paragraph 45 of the Complaint, Plaintiffs' demand for relief speaks for itself and on this basis, the State denies those allegations.

46. The State denies each and every other allegation not heretofore specifically admitted.

FIRST DEFENSE

47. The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

48. The Court lacks jurisdiction to determine the claims Plaintiffs set forth in the Complaint.

THIRD DEFENSE

49. Plaintiffs lack standing to assert their claims against the State.

FOURTH DEFENSE

50. Plaintiffs' claims are barred by the doctrine of Separation of Powers.

FIFTH DEFENSE

51. Plaintiffs' claims are not justiciable.

SIXTH DEFENSE

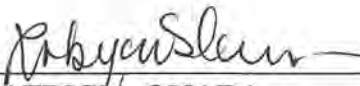
52. Plaintiffs' claims are barred by sovereign immunity.

WHEREFORE, the State Defendants pray that the Court:

1. Dismiss the Complaint with prejudice;
2. Award the State its attorneys' fees and costs incurred herein; and
3. Grant the State such further relief as may be just and equitable.

DATED: Honolulu, Hawai'i, September 26, 2018.

RUSSELL A. SUZUKI
Attorney General



PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAI'I

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

CERTIFICATE OF SERVICE

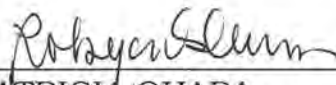
CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the forgoing document was duly served by U.S. Mail, postage prepaid, to the following party listed below:

ROBERT B. BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813

Attorney for Plaintiffs

DATED: Honolulu, Hawai'i, September 26, 2018.



PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAI'I

RUSSELL A. SUZUKI 2084
Attorney General

MAURICE S. KATO 1263
PATRICIA OHARA 3124
ROBYN B. CHUN 3661
Deputy Attorneys General
Department of the Attorney General,
State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Telephone: (808) 586-0618
Facsimile: (808) 586-1372
Email: robyn.b.chun@hawaii.gov

Attorneys for Defendant
STATE OF HAWAII

FIRST CIRCUIT COURT
STATE OF HAWAII
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2018 OCT -9 AM 9:54

J. KUBO
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

v.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC ^{SK}
DEFENDANT STATE OF HAWAII'S
MOTION FOR SUMMARY
JUDGMENT; DECLARATION OF
ROBYN B. CHUN; EXHIBITS "A" -
"V"; NOTICE OF HEARING;
CERTIFICATE OF SERVICE

Hearing

Date: November 13, 2018

Time: 3:00 pm

Judge: Honorable Gary W.B. Chang

DEFENDANT STATE OF HAWAII'S
MOTION FOR SUMMARY JUDGMENT

Defendant State of Hawai'i ("State") through Russell A. Suzuki, Attorney General, and his undersigned deputies, hereby moves for an order granting summary judgment in favor of the State and dismissing the Complaint. The State is entitled to judgment as a matter of law because:

FIRST JUDICIAL CIRCUIT
STATE OF HAWAII
14TH DIVISION

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14th Division

NOTICE TO ALL PARTIES RE:

(1) DUTY TO IDENTIFY RELEVANT RECORD
AND (2) HRCP 56(e) AUTHENTICATING EXHIBITS

This notice applies to evidentiary proceedings.

(1) All parties have a duty to specifically cite to the page and line numbers of an exhibit or declaration that show a genuine issue of material fact exists or does not exist. Failure to discharge this duty may result in the court disregarding your argument. [Munoz v. Yuen, 66 Haw. 603, 605, 670 P.2d 825, 826 (1983).]

(2) The court will not consider any exhibit unless the exhibit is admissible in evidence. This requires each exhibit to be authenticated by a competent witness. [G.E. Capital Hawaii, Inc. v. Yonenaka, 96 Hawai'i 32, 40, 25 P.3d 807, 815 (App. 2001).]

Attorneys are not competent to authenticate an exhibit unless counsel participated in the creation of the document. [Nakato v. Macharg, 89 Hawai'i 79, 88-90, 969 P.2d 824, 833-35 (App. 1998).]

Rev. 5/23/2015

(1) Act 84 is presumptively constitutional and any party challenging an enactment must show that it is unconstitutional beyond a reasonable doubt; Plaintiffs League of Women Voters of Honolulu and Common Cause cannot meet this burden of proof;

(2) The title of Senate Bill ("S.B.") No. 2858, "A Bill for an Act Relating to Public Safety," satisfies the subject-title requirement in Article III, Section 14 of the Hawai'i Constitution;

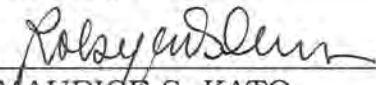
(3) Under the separation of powers doctrine, this Court may not inquire into the Legislature's determination that S.B. No. 2858 met the three-reading requirement of Article III, Section 15 of the Hawai'i Constitution because the Hawai'i Constitution specifically provides that the Legislature shall "determine the rules of its proceedings"; and

(4) It is imperative that legislative proceedings afford legislators the flexibility to respond to changing priorities and emergencies.

This motion is brought pursuant to Rules 7 and 56, Hawai'i Rules of Civil Procedure and is based on the memorandum, declaration, and exhibits attached hereto, the records and files herein and such further argument as may be made at the hearing on this motion.

DATED: Honolulu, Hawai'i, October 8, 2018

RUSSELL A. SUZUKI
Attorney General



MAURICE S. KATO
PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General
Attorneys for Defendant
STATE OF HAWAI'I

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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

v.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

MEMORANDUM IN SUPPORT

MEMORANDUM IN SUPPORT

I. INTRODUCTION

Plaintiffs have sued the State, claiming that the enactment of Senate Bill ("S.B.") No. 2858, S.D. 2, H.D. 1, C.D. 1 (Act 84 of the 2018 Regular Session), did not comply with Article III, Sections 14 and 15 of the Hawai'i Constitution. As relief, Plaintiffs seek a declaratory judgment that the process for adopting S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, was unconstitutional and Act 84 is null and void.

The State disputes Plaintiffs' claims and moves for summary judgment as to the Complaint on the grounds that:

(1) Every enactment of the legislature is presumptively constitutional, and given the material facts, Plaintiffs cannot overcome this presumption and meet their burden of showing unconstitutionality beyond a reasonable doubt;

(2) The title, "A Bill for an Act Relating to Public Safety," is not "unconstitutionally overbroad";

(3) Under the separation of powers doctrine, this Court may not inquire into the Legislature's determination that S.B. No. 2858 S.D. 2, H.D. 1, C.D. 1, met the three-reading requirement of Article III, Section 15 of the Hawai'i Constitution because the Hawai'i Constitution specifically provides that the Legislature shall "determine the rules of its proceedings"; and

(4) It is imperative that legislative proceedings afford the Legislature the flexibility to address changing priorities and unanticipated needs.

II. STATEMENT OF UNDISPUTED MATERIAL FACTS

The following facts are established by government records printed from the Hawai'i State Legislature's website or the Hawai'i Constitution and are not reasonably susceptible to dispute.

1. Article III, Section 12 of the Hawai'i Constitution provides in relevant part, "Each house shall choose its own officers, **determine the rules of its proceedings** and keep a journal." (Emphasis added).

2. Pursuant to Article III, Section 12, the House of Representatives ("House") and the Senate have adopted rules regarding their procedures for introducing bills, referring them to committees for hearings and amending and adopting them. See Excerpt (pages 20-24) of Rules of the Senate 2017-2018 Adopted January 18, 2017, Amended August 28, 2017 ("Senate Rules"); Excerpt (pages 33-36) of Rules of the House of Representatives 2017-2018, Exs. "A" and "B" to the Declaration of Robyn B. Chun (the "Chun Dec.") attached hereto and incorporated herein by reference.

3. The Senate and House Rules permit bills to be read by title and do not require full reading of the text of all bills. *See Id.*

4. S.B. No. 2858, titled “A Bill for an Act Relating to Public Safety”, was introduced in the Senate on January 24, 2018. *See* S.B. No. 2858 and Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Exs. “C” and “E” to the Chun Dec.

5. As introduced, S.B. No. 2858 added new sections to chapter 353 (Corrections), Hawaii Revised Statutes, to require the Department of Public Safety to submit an annual report to the Legislature setting out performance indicators to track rehabilitation and re-entry for individuals who are released from prison. *See* S.B. No. 2858, Ex. “C” to the Chun Dec.

6. S.B. No. 2858, as introduced and amended by the Senate, passed three readings in the Senate on January 24, 2018, February 9, 2018, and March 6, 2018, and was transmitted to the House of Representatives (“House”) on March 6, 2018. *See* Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. “E” to the Chun Dec.

7. S.B. No. 2858, S.D. 2, passed first reading in the House on March 8, 2018. *Id.*

8. On March 15, 2018, when the House Committee on Public Safety heard S.B. No. 2858, S.D. 2, the Committee amended it by deleting its contents and inserting the substantive provisions of H.B. No. 2452, H.D. 1, to require that State buildings constructed after July 1, 2018, include a hurricane shelter

room. See S.B. No. 2858, S.D. 2, H.D. 1; Stand. Com. Rep. No. 1255-18, Exs. "D" and "F" respectively to the Chun Dec.

9. S.B. No. 2858, S.D. 2, H.D. 1, passed second and third readings in the House and was transmitted to the Senate. See Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. "E" to the Chun Dec.

10. The Senate disagreed with the House amendments. *Id.*

11. As a result, a conference committee of Senate and House members met to confer and recommended that S.B. No. 2858, S.D. 2, H.D. 1, be amended to delete the requirement that all state buildings constructed after July 1, 2018 include a hurricane shelter room and to insert language that requires the State to consider hurricane resistant criteria when designing and constructing new public schools. See S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1; Conf. Comm. Rep. No. 93-18, Exs. "G" and "H" respectively to the Chun Dec.

12. S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, passed final reading in the House and the Senate on May 1, 2018 with all members voting aye in both chambers. See Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. "E" to the Chun Dec.

13. On May 1, 2018, the Senate President and Clerk of the Senate and the Speaker of the House of Representatives and Chief Clerk of the House of Representatives certified that S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, passed final reading in their respective houses. See certification of the Senate of the State of Hawai'i dated May 1, 2018, and certification of the House of Representative of the State of Hawai'i dated May 1, 2018, Exhibits "I" and "J" to the Chun Dec.

14. S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, was transmitted to the Governor on May 3, 2018, and signed into law as Act 84 on June 29, 2018. See Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. "E" to the Chun Dec.

III. SUMMARY JUDGMENT STANDARD

Pursuant to Rule 56(c), Hawai'i Rules of Civil Procedure, summary judgment "shall be rendered forthwith" if "there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law."

Thus,

[o]nce the movant has satisfied the initial burden of showing there is no genuine issue of material fact, the opposing party must come forward, through affidavit or other evidence, with specific facts showing that there is a genuine issue of material fact.

Miller v. Manuel, 9 Haw. App. 56, 65, 828 P.2d 286, 292 (1991). If the non-moving party fails to meet this burden, the moving party is entitled to summary judgment as a matter of law. *Hawaii Broad. Co. v. Hawaii Radio, Inc.*, 82 Hawai'i 106, 112, 919 P.2d 1018, 1024 (1996). See *Cieslik v. K.M. Young & Assoc., Inc.*, 4 Haw. App. 657, 675 P.2d 793 (1983) (non-moving party must respond to motion for summary judgment by affidavit or otherwise setting forth specific facts showing a genuine issue of material fact and may not rely on allegations of the pleadings).

Here, there is no genuine issue as to any material fact and the State is entitled to judgment as a matter of law.

IV. THE STATE IS ENTITLED TO SUMMARY JUDGMENT

A. Act 84 is Presumptively Constitutional

In *Schwab v. Ariyoshi*, 58 Haw. 25, 564 P.2d 135 (1977), taxpayers sued the Governor and other government officials seeking to enjoin the implementation of an act on the grounds that its enactment violated the Hawai'i Constitution and certain House and Senate rules. The court granted summary judgment in favor of the defendants and the plaintiffs appealed.

On appeal, the Hawai'i Supreme Court affirmed, stating:

[W]e have consistently held, recently in *State v. Kahalewai*, 56 Haw. 481, 541 P.2d 1020 (1975), that ***every enactment of the legislature is presumptively constitutional, and a party challenging the statute has the burden of showing unconstitutionality beyond a reasonable doubt.***

Schwab, 58 Haw. at 31, 564 P.2d at 139 (citations omitted, emphasis added).

Thus, Act 84 is presumed to be constitutional and Plaintiffs must show beyond a reasonable doubt that the alleged violations of the Hawai'i Constitution are "plain, clear, manifest and unmistakable". *Id.* Plaintiffs cannot meet their burden of proof.

B. The Title of S.B. No. 2858 is Not Unconstitutionally Overbroad

In Count I of the Complaint, Plaintiffs ask the Court to declare "Act 84 void because the title to S.B. No. 2858 does not satisfy the subject-in-title requirement of article III, section 14 of the Hawai'i Constitution." *Id.*, ¶ 39 at 7. Plaintiffs' allegations are without merit; the title "A Bill for an Act Relating to Public Safety" is not overbroad.

Article III, Section 14 of the Hawai‘i Constitution provides in relevant part:

No law shall be passed except by bill. Each law shall embrace but one subject, which shall be expressed in its title.

Thus, the Hawai‘i Constitution mandates that each bill pertain to one subject and that subject be expressed or conveyed in the title of the bill.

In *Schwab*, the plaintiffs contended that the title of a bill violated the Hawai‘i Constitution because the bill contained two subject matters, only one of which was expressed in the title. *Schwab*, 58 Haw. at 30, 564 P.2d at 139. The circuit court disagreed.

On appeal, supreme court explained,

[the] presumption of validity prevails in the consideration of Act 58, and to nullify it on the grounds that it was enacted in violation of the subject-title requirements of the State Constitution, the infraction should be plain, clear, manifest, and unmistakable.

. . . .

It is sufficient if the title of an ordinance fairly indicates to the ordinary mind the general subject of the act, is comprehensive enough to reasonably cover all its provisions, and is not calculated to mislead, but an act which contains provisions neither suggested by the title, nor germane to the subject expressed therein, is, to that extent void.

Id., at 31, 34, 564 P.2d at 139, 141 (citations omitted). See *In re Goddard*, 35 Haw. 203, 207 (1939) (“the general purpose of the provision is accomplished when a law has one general subject or object which is fairly indicated in its title”)

Here, Plaintiffs allege that the title of S.B. No. 2858 is so general that it obscures its contents. See Complaint, ¶ 34 at 6. Plaintiffs' contention lacks merit.

That the title of S.B. No. 2858 is not as specific or clear as it could be is not a defect that renders Act 84 void. Applying a liberal construction to this constitutional requirement, the supreme court stated,

the title of the ordinance referred to is not the most appropriate but that is not essential if it indicates the scope and purpose of the ordinance. Neither is it necessary that the title inform the reader of the specific contents of the bill. If no portion of the bill is foreign to the subject of the legislation as indicated by the title, however general the latter may be, it is in harmony with the constitutional mandate.

Schwab, 58 Haw. at 35, 564 P.2d at 141 (citation omitted in orig.). See *Montclair v. Ramsdell*, 107 U.S. 147, 155 (1882) ("As the State Constitution has not indicated the degree of particularity necessary to express in its title the one object of an act, the courts should not embarrass legislation by technical interpretations based upon mere form or phraseology"); *In re Goddard*, 35 Haw. 203, 207-08 (1939) ("The generality of a title is therefore no objection to it so long as it is not made a cover to legislation incongruous in itself and which by no fair intendment can be considered as having a necessary or proper connection with the subject").

The title of S.B. No. 2858 "Relating to Public Safety," is not unconstitutionally broad for legislation. The subject-title constitutional requirement applies to the contents of the bill as passed and the subject expressed in the bill's title. S.B. No. 2858, as passed and enacted as Act 84,

Session Laws of Hawaii 2018, amended section 107-27, Hawaii Revised Statutes, which sets forth requirements for the design of state buildings, to add a new subsection (c) that provides, “The State shall consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge.” The new statutory provision clearly is within the general subject of “public safety.”

With the availability of legislative information through the Internet today, detailed determinations regarding each bill’s title are unnecessary. Bill summaries and the full texts of bills are posted online by the Legislature for the public to review. The public and lawmakers do not need to rely on the title of a bill to “assess generally the proposed law’s impact and any interest in the bill.” See Complaint, ¶ 35 at 7.

In short, the title “A Bill for an Act Relating to Public Safety” is sufficient because: (a) it conveys the general subject matter of the bill; (b) it is broad enough to cover the bill’s contents; and (c) it is not intended to be misleading. See *Schwab*, 58 Haw. at 31, 34, 564 P.2d at 139, 141 (citations omitted)

C. The Separation of Powers Doctrine Precludes the Court from Interfering with the Legislature’s Passage of Bills

In Count II of the Complaint, Plaintiffs ask the Court for a declaratory order that Act 84 is void because S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, did not pass three readings in the Senate as required by Article III, Section 15 of the Hawai‘i Constitution.¹ See Complaint at 7-8. Plaintiffs’ request for relief asks

¹ Article III, Section 15 of the Hawai‘i Constitution provides in relevant part:

this court to violate the doctrine of separation of powers, which prohibits any branch of government from unduly interfering with the constitutional functions of the other branches. This Court may not overstep its bounds.

According to the Hawaii Supreme Court,

[t]he threshold question which must be answered in this determination is whether or not the doctrine of separation of powers will prevent a court from investigating possible violations of legislative rules. As a general rule, the role of the court in supervising the activity of the legislature is confined to seeing that the actions of the legislature do not violate any constitutional provision. We will not interfere with the conduct of legislative affairs in absence of a constitutional mandate to do so, or unless the procedure or result constitutes a deprivation of constitutionally guaranteed rights.

Schwab, 58 Haw. at 37, 564 P.2d at 142-43 (citations omitted). Thus, where the Hawai'i Constitution assigns an issue to another branch of government, the court will not intervene. See *Hussey v. Say*, 139 Hawai'i 181, 188, 384 P.3d 1282, 1289 (2016) (“[a] case involving a nonjusticiable political question must be dismissed when there is a ‘textually demonstrative constitutional commitment of the issue to a coordinate political department’”) quoting *Baker v.*

No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass third or final reading in either house unless printed copies of the bill in the form to be passed shall have been made available to the members of that house for at least forty-eight hours.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration.

Carr, 369 U.S. 186, 217 (1962); *Trustees of Office of Hawaiian Affairs v. Yamasaki*, 69 Haw. 154, 171, 737 P.2d 446, 456 (1987) (judges must “carefully weigh the wisdom, efficacy, and timeliness of an exercise of their power before acting, especially where there may be an intrusion into areas committed to other branches of government”) (citation omitted).²

Here, Article III, Section 12 of the Hawai‘i Constitution provides that “Each house shall choose its own officers, determine the rules of its proceedings and keep a journal.” (Emphasis added). Thus, the Hawai‘i Constitution expressly mandates that the Legislature shall determine its own procedural rules for bill adoption and other proceedings.

As defined by the Legislature, a “Reading” is “[a] vote by the entire House or Senate on a bill or resolution. Approval of a bill requires three readings by the House and three readings by the Senate.” See Legislative Glossary, Ex. “K” to the Chun Dec. The rules for the Senate provide that the first reading of a bill “shall be for information” and the second and third readings may be read by title only. See Rules of the Senate, Rules 48-50, Ex. “A” to the Chun Dec. Similarly, the House rules permit all three readings of a bill to be by title only. See Rules of the House of Representatives, Rules 34-35, 36.2, Ex. “B” to the Chun Dec.

² See also *Hughes v. Speaker of the New Hampshire House of Representatives*, 876 A.2d 736 (N.H. 2005) (“[B]ecause the State Constitution grants the legislature the authority to establish such procedures, the question of whether the legislature violated these statutes is nonjusticiable.”) (citation omitted); *Aboud v. League of Women Voters of Alaska*, 743 P.2d 333 (Alas. 1987) (whether the legislature violated its own open meetings rule was nonjusticiable).

Accordingly, when for example, a bill passes second reading that means that the bill has been read by title and the House or Senate has voted on the measure to determine whether it has sufficient support to move forward or not depending on the outcome of the vote. It does not mean that the text of the bill has been read on the House or Senate floor. Article III, Section 15 of the Hawai'i Constitution allows time for review of the text of the bill before the reading on the floor by requiring readings of a bill to be on separate days and by requiring a bill "in the form to be passed" to have been available for at least forty-eight hours before third or final reading.

Here, S.B. No. 2858, as originally introduced (requiring the Department of Public Safety to submit annual reports on released prisoners)³ and amended by the Senate, passed three readings in the Senate and S.B. No. 2858, S.D. 2, was transmitted to the House. *Id.* After it passed first reading the House, the House Committee on Public Safety amended S.B. No. 2858, S.D. 2, by deleting its contents and inserting the substantive (hurricane related) provisions of House Bill No. 2452, H.D. 1.⁴ See Stand. Com. Rep. No. 1255-18, Ex. "F" to the Chun Dec. S.B. No. 2858, S.D. 2, H.D. 1, passed second and third readings in the

³ The substance of the original version of S.B. No. 2858, requiring the Department of Public Safety to establish performance indicators and submit reports regarding released prisoner rehabilitation was adopted as S.B. No. 2861, S.D. 2, H.D. 1, C.D. 1, and enacted as Act 212.

⁴ The idea of a hurricane shelter requirement was considered by the Senate earlier during the regular session before the contents of H.B. No. 2452 were inserted in S.B. No. 2858 when H.B. No. 2452, H.D. 1, passed first reading in the Senate on March 1, 2018. See H.B. No. 2452, H.D. 1; Measure Status for H.B. No. 2452, Exs. "L" and "M" respectively to the Chun Dec.

House on March 21, 2018, and April 6, 2018. *See Measure Status for S.B. No. 2858, S.D. 2, H.C. 1, C.D. 1, Ex. "E" to the Chun Dec.*

The Senate did not agree to the amendment made by the House so S.B. No. 2858, S.D. 2, H.D. 1, was referred to conference committee⁵ where it was amended (C.D. 1) and the committee recommended that it be passed. *Id.* Both Houses gave forty-eight hours' notice of the bill in its final form as required by Article III, Section 15 of the Hawai'i Constitution. *Id.* On May 1, 2018, S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, passed final reading or vote in both Houses and was certified by the Senate President and Chief Clerk of the Senate and the Speaker of the House of Representatives and the Chief Clerk of the House. *See certifications for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, signed by the Senate President and Chief Clerk of the Senate and the Speaker of the House of Representatives and the Chief Clerk of the House, Exs. "I" and "J" respectively to the Chun Dec.* On May 3, 2018, S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, was transmitted to the Governor who signed the bill into law as Act 84 on June 29, 2018. *See Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. "E" to the Chun Dec.*

The same bill - S.B. No. 2858 with the title, "A Bill for an Act Relating to Public Safety" - passed three readings or votes in each house, as well as, final readings of the conference draft in each house. The three reading requirement

⁵ "Committee-Conference Committees - are appointed from both houses to reach agreement on a measure for final approval by both houses once it has passed in differing versions by each house." Legislative Glossary, Ex. "K" to the Chun Declaration.

in Article III, Section 15 was certified by the Senate President and the Speaker of the House. The procedure by which this result was obtained is determined by the Rules of the House and Senate and this Court may not interfere. See *Schwab*, 58 Haw. at 39, 564 P.2d at 143 (“the alleged violations of its own legislative rules remain the province of the legislature itself”) (citation omitted).

D. It is Imperative that Legislative Proceedings Allow Legislators to Respond to Changing Priorities and Unanticipated Emergencies

The Legislature's rules and proceedings for adopting bills reflect a legislative reality, which is that during the course of a legislative session, priorities change, funding amounts are often not determined until late in a session and emergencies may give rise to immediate, unanticipated needs. It is imperative that legislative proceedings allow legislators to respond to these events. The deletion and replacement of the contents of bills during a legislative session provides the needed flexibility without having to extend a session or call a special session that necessitates a vote and added expense.

For example, during the 2018 legislative session, S.B. No. 192, S.D. 1, H.D. 1, C.D. 1, titled “A Bill for an Act Relating to the State Budget”, was amended in Conference Committee to transfer excess moneys in the tobacco settlement special fund to the general fund to be appropriated to the Department of Defense for disaster relief necessitated by the widespread flooding and damage caused by the torrential rains on Kauai and east Oahu. See S.B. No. 192, S.D. 1, H.D. 1, C.D. 1, Conf. Comm. Rep. No. 1-18 re: S.B. No. 192, S.D. 1, H.D. 1, C.D. 1; Measure Status for S.B. No. 192, S.D. 1, H.D. 1, C.D. 1, Exs. “N” - “P” to the Chun Dec.

Similarly, S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1, titled “A Bill for an Act Relating to Homelessness”, was originally a bill to fund a rental assistance program and was amended in conference committee to delete its contents and establish, and appropriate moneys for, an Ohana Zones Pilot Program, an Emergency Department Homelessness Assessment Pilot Program, and a Medical Respite Pilot Program. See S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1, Conf. Comm. Rep. No. 177-18 re: S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1, Measure Status for S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1, Exs. “Q” – “S” to the Chun Dec.

Likewise, S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1, titled “A Bill for an Act Relating to Public Employment Cost Items”, passed three readings in the House and Senate with the appropriation amounts left blank and then, based on an arbitration award received on April 5, 2018, the Conference Committee inserted the specific amount of the appropriations. See S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1, Conf. Comm. Rep. No. 7-18 re: S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1, Measure Status for S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1, Ex. “T” – “V” to the Chun Dec.

Each of the foregoing bills was substantively amended late in a legislative session, after the bills had passed three readings in both houses, to address different situations where: (a) funding was needed due to a natural disaster; (b) innovative new pilot programs were established and funded; or (c) appropriation amounts were not available until late in the session. The Senate and House rules allow readings of, or votes on, bills by title only and the


reading of short form⁶ and other vehicle bills. If the Court rules that the same text of bills must pass three readings in each house, the Court will be imposing a significant change to the Legislature's rules that will, as a practical matter, severely restrict the flexibility that the Legislature needs.

V. CONCLUSION

The Hawai'i Supreme Court's decision in *Schwab* is precedent and compels this Court to grant summary judgment in favor of the State and dismiss the Complaint with prejudice. The Court in *Schwab* addressed the issues that Plaintiffs have raised here and concluded, as a matter of law, that there was no constitutional deficiency in the title of the bill and the Legislature's proceedings for the passage of bills are non-justiciable. This Court can come to no other conclusion here.

DATED: Honolulu, Hawai'i, October 8, 2018.

RUSSELL A. SUZUKI
Attorney General



MAURICE S. KATO
PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General
Attorneys for Defendant
STATE OF HAWAI'I

⁶ Both the House and Senate rules permit the introduction of "Short-Form bills" which are "bills that contain only a reference to the general idea of the subject and contemplates the subsequent drafting of specific details in long form." See Rule 45, Rules of the Senate; Rule 33.1, Rules of the House of Representatives, Legislative Glossary, Exhibits "A", "B" and "K" to the Chun Dec.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

DECLARATION OF ROBYN B. CHUN;
EXHIBITS "A" – "V"

DECLARATION OF ROBYN B. CHUN

I, ROBYN B. CHUN, hereby declare pursuant to Rule 7(g), Rules of the Circuit Court for the State of Hawai'i that:

1. I am an attorney with the Department of the Attorney General, State of Hawai'i, counsel for Defendant State of Hawai'i herein.

2. I make this declaration based on my personal knowledge and am competent to testify as to the matters set forth herein.

3. All of the exhibits attached hereto are copies of documents or, excerpts from documents, that are posted on the Hawaii State Legislature's website, www.capitol.hawaii.gov. I printed each exhibit from that website.

4. Pursuant to Rule 201(b), Haw. R. Evid., the Court may take judicial notice of the documents attached as exhibits hereto as they are

"capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

5. Attached hereto as Exhibit "A" is a true and correct copy of Part V. Bills, pages 20-24 of the Rules of the Senate 2017-2018 adopted January 18, 2017, Amended August 29, 2017.

6. Attached hereto as Exhibit "B" is a true and correct copy of Part VII. Bills and Resolutions, pages 33-36 of the Rules of the House of Representatives 2017-2018 as amended by Special Session 2017.

7. Attached hereto as Exhibit "C" is a true and correct copy of Senate Bill ("S.B.") No. 2858.

8. Attached hereto as Exhibit "D" is a true and correct copy of S.B. No. 2858, S.D. 2, H.D. 1.

9. Attached hereto as Exhibit "E" is a true and correct copy of the Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1.

10. Attached hereto as Exhibit "F" is a true and correct copy of Stand. Com. Rep. No. 1255-18 re: S.B. No. 2858, S.D. 2, H.D. 1.

11. Attached hereto as Exhibit "G" is a true and correct copy of S.B. 2858, S.D. 2, H.D. 1, C.D. 1.

12. Attached hereto as Exhibit "H" is a true and correct copy of Conf. Committee Rep. No. 93-18 re: S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1.

13. Attached hereto as Exhibit "I" is a true and correct copy of the certification that S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1 passed final reading

in the Senate signed by the Senate President Ronald Kouchi and Clerk of the Senate Carol Taniguchi.

14. Attached hereto as Exhibit "J" is a true and correct copy of the certification that S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, passed final reading in the House signed by the Speaker of the House of Representatives Scott K. Saiki and Chief Clerk of the House of Representatives Brian L. Takeshita.

15. Attached hereto as Exhibit "K" is a true and correct copy of the Legislative's Glossary.

16. Attached hereto as Exhibit "L" is a true and correct copy of House Bill No. 2452, H.D. 1.

17. Attached hereto as Exhibit "M" is a true and correct copy of the Measure Status for House Bill No. 2452, H.D. 1.

18. Attached hereto as Exhibit "N" is a true and correct copy of S.B. No. 192, S.D. 1, H.D. 1, C.D. 1.

19. Attached hereto as Exhibit "O" is a true and correct copy of Conf. Comm. Rep. No. 1-18 re: S.B. No. 192, S.D. 1, H.D. 1, C.D. 1.

20. Attached hereto as Exhibit "P" is a true and correct copy of the Measure Status for Senate Bill No. 192, S.D. 1, H.D. 1, C.D. 1.

21. Attached hereto as Exhibit "Q" is a true and correct copy of S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1.

22. Attached hereto as Exhibit "R" is a true and correct copy of Conf. Comm. Rep. No. 177-18 re: S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1.

23. Attached hereto as Exhibit "S" is a true and correct copy of the Measure Status for Senate Bill No. 2401, S.D. 2, H.D. 1, C.D. 1.

24. Attached hereto as Exhibit "T" is a true and correct copy of S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1.

25. Attached hereto as Exhibit "U" is a true and correct copy of Conf. Comm. Rep. No. 7-18 re: S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1.

26. Attached hereto as Exhibit "V" is a true and correct copy of the Measure Status for Senate Bill No. 2361, S.D. 2, H.D. 1, C.D. 1.

I, ROBYN B. CHUN, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, October 8, 2018.



ROBYN B. CHUN

2017-2018 Rules of the Senate



State of Hawai'i *The Twenty-Ninth Legislature*

Ronald D. Kouchi
Senate President

Michelle N. Kidani
Vice President

J. Kalani English
Majority Leader

Brickwood Galuteria
Majority Caucus Leader

Will Espero
Majority Floor Leader

Kaiali'i Kahele
Majority Whip

Gilbert S.C. Keith-Agaran
Assistant Majority Whip

Adopted January 18, 2017
Amended August 28, 2017

EXHIBIT "A"

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PREAMBLE

The members of the Senate do hereby reaffirm the Senate's dedication to upholding the Constitutions of the United States and the State of Hawai'i, to providing for openness and fairness in all of its proceedings, and to promoting collaboration and consultation in its committee work.

The Senate stands as a people-oriented institution that serves all of the people, whatever their background or persuasion. The Senate works for the public good and strives to give every person an equal opportunity to realize his or her highest potential. The Senate's organized debate and deliberative consideration of issues shall be open to the public.

Rule 43 Order of Business: Unfinished Business.

The unfinished business in which the Senate was engaged at the time of the last adjournment shall have the preference in the Order of the Day. Until the former is disposed of, no motion for any other business shall be received without special leave of the Senate.

Rule 44 Order of Business: Questions on Priority.

All questions relating to the priority of business to be acted upon shall be decided without debate.

PART V. BILLS**Rule 45 Bills: Introduction.**

Any bill may be introduced on the report of the committee or by any member, except appropriation bills subject to the next paragraph, and except short form bills which may only be introduced by the majority leader or the minority leader after appropriate consultation with committee chairs and other members of the Senate.

The Executive Budget, Judiciary Budget, Legislative Budget, General Appropriations Bill, Supplemental Appropriations Bill, Office of Hawaiian Affairs Budget, and bills for criminal injuries compensation, for claims against the State and for funding of collective bargaining agreements may be introduced only by the President. Each member may introduce only one bill appropriating money for capital improvements projects in the member's district. The majority leaders and the minority leader shall develop a policy governing introduction by individual members of bills intended to appropriate money or to authorize the issuance of state bonds.

Bills, which shall carry over from a regular session in an odd-numbered year to the next regular session, shall retain the numbers assigned to them. The Clerk shall keep a record of the status of all bills in possession of the Senate at the end of the odd-numbered year session and shall publish the record of the status of all such bills prior to the convening of the next regular session.

Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawai'i Revised Statutes or Session Laws of Hawai'i, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and stricken and any new matter added to the section or subsection shall be underscored. However, a Supplemental Appropriations Bill need not conform to this rule, nor an amending bill where the intent and effect of the amending bill can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses or items to be amended need be set forth as the President may allow. The President may allow additional exceptions to this rule.

Rule 46 Bills: Referral to Committee.

(1) Upon introduction, all bills shall be numbered by the Clerk in numerical sequence, shall bear an identification as a Senate Bill, and shall pass first reading.

(2) The majority research office shall make recommendations to the majority leadership on the referral of each such bill to appropriate Leadership or Standing Committees.

(3) Each such bill shall be referred by members of the majority leadership appointed by the President, to one or more appropriate Leadership or Standing Committees for consideration.

(4) Any referral may be reconsidered by the President upon written request of any chair who is aggrieved by the referral made within three working days. The President shall decide the request for reconsideration within a reasonable time, which decision shall be final. No request for reconsideration shall be considered if the timing of the request would have the effect of killing a bill or resolution.

(5) Any proposed senate draft that makes major amendments or wholesale changes that could affect the referral of the bill shall be submitted to the President for review and if the President deems it appropriate, the bill may be re-referred as determined by the President. The President's determination of any proposed re-referral shall be made within twenty-four hours of receipt of the proposed senate draft.

(6) Each Leadership and Standing Committee shall consider the bills and other matters referred to it as expeditiously as may be possible.

Rule 47 Bills: Required Readings.

No bill shall pass the Senate unless it shall have passed three readings in the Senate on separate days. The President shall give notice in each instance whether it be the first, second or third reading.

Rule 48 Bills: First Reading.

(1) The first reading of a bill shall be for information. If opposition be made to it, the question shall be: "Shall this bill be rejected?" which question may be debated. But no one shall speak more than once upon such question, except the introducer of the bill, who may close the debate.

(2) If the question to reject be negative, the bill shall go to its second reading without question.

Rule 49 Bills: Second Reading.

A bill upon its second reading may be read by its title only. It then shall be subject to a motion to commit. If it is not referred to a Leadership Committee, Standing Committee, or Special Committee, but is ordered to be considered in Committee of the Whole, a day for such consideration shall be determined by the chair of such committee. When the bill is reported from committee it shall take its place in the order of business for future consideration.

Rule 50 Bills: Third Reading.

(1) No bill shall pass third or final reading in the Senate unless copies of the bill in the form to be passed have been made available to the members of the Senate for at least 48 hours. Form to be passed means the form in which a bill is to be (a) passed on third reading in the Senate, (b) concurred to by the Senate after amendments have been made by the House, or (c) passed by the Senate after a Conference Committee has agreed upon it.

(2) A bill on its third or final reading may be read by its title only. Upon the final passage of any bill, the Ayes and Noes shall be called. Such passage shall require the affirmative vote of a majority of all the members of the Senate and the Ayes and Noes shall be entered on the Journal.

(3) All bills, except on first reading, shall be identified by title on the Order of the Day before consideration by the members unless waived by the President.

Rule 51 Bills: Property of Senate.

All bills introduced in the Senate shall be deemed the property of the Senate and under its control unless they shall become law, subject however to the right of the House of Representatives to amend or to refuse to agree with the bills.

Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session; provided that if such bill shall have passed third reading in the Senate in an odd-numbered session, it shall pass at least one reading in the Senate in the next regular session upon its return to the Senate from the House.

Rule 52 Bills: Recall from Committee.

Twenty days after a bill has been referred to a committee, the same may be recalled from such committee by the affirmative vote of one-third of the members of the Senate.

Rule 53 Matters Tabled.

When a bill or resolution or other matter has been laid upon the table, it shall not thereafter be taken from the table and be considered or restored to a place upon the calendar of the Senate without the consent of a majority.

Rule 54 Bills: Amendments.

(1) All amendments proposed to any bill shall be in writing, unless otherwise ordered by the Senate, and shall be sent to the Clerk's desk to be filed with the bill.

(2) The fundamental purpose of any amendment to a bill shall be germane to the fundamental purpose of the bill.

(3) The Clerk shall prepare and distribute copies of any proposed floor amendment to each member of the Senate present.

(4) A floor amendment shall be deemed pending only after its proponent has been recognized by the President and its adoption has been properly moved and seconded.

(5) A floor amendment that relates to a different subject, is intended to accomplish a different purpose, incorporates any other bill pending before the Senate, or would alter the nature of the bill as reported, is not germane and shall not be considered by the Senate.

(6) An amendment to a floor amendment that is not germane to both the floor amendment and the bill as reported shall not be considered by the Senate.

Rule 55 Bills: Certification.

When a bill is passed it shall be certified by the Clerk who shall note the day of its passage in the journal along with a record of the ayes and noes.

Rule 56 Bills: Received from House of Representatives.

Whenever a House bill which has passed Third Reading in the House of Representatives shall be certified to the Senate for its action, such bill shall be read three times before final passage, in accordance with the provision of the rules for the passage of bills introduced in the Senate.

Rule 57 Bills: Transmittal to House of Representatives.

When a bill originating in the Senate shall have passed its third reading, or when a bill originating in the House which has been received from the House shall have been amended, or when a carry-over bill from an odd-numbered year originating in the House passes its third reading in the Senate in an even-numbered year session, such bill or such amended bill shall

immediately be certified by the President and Clerk and sent to the House of Representatives for its consideration.

Rule 58 Bills: Correction of Errors.

When a bill has passed both the Senate and the House of Representatives and an error in it is discovered prior to its having received the approval of the Governor, the bill may be returned by Concurrent Resolution to the house last considering the bill for proper correction.

Rule 59 Bills: Order of Consideration.

(1) The Clerk shall ensure that bills that have passed first reading are made immediately available. When the bills have been made available to the members of the Senate, the Majority Leadership, appointed by the President, shall refer the bills to the various committees. When the committees have considered the bills and reported on them, the committees shall return the bills to the Clerk, and the Clerk shall place the bills in the Second Reading File. The Senate shall consider the bills in the order in which they appear in the Second Reading File.

(2) The Clerk shall arrange bills that have passed second reading in the order of their passage on second reading, regardless of the date of their reference to committee or the date of the committee report on them. The Clerk shall place them on the Third Reading File in the order in which they passed second reading and the Senate shall consider them on third reading in that same order. However, if the third reading of a bill is set for some particular date, that bill shall be removed from the Third Reading File.

Rule 60 Bills: Special Order of Consideration.

All bills and other matters set for consideration on particular dates, shall be arranged in the order of the several votes making such assignments. A list shall be made of such special orders, and when the time for consideration arrives, such bills and other matters shall be considered in the order of assignment. If an adjournment shall be had before all of such special orders are disposed of, the remainder shall go over and come under the head of unfinished business on the following day, unless otherwise ordered.

PART VI. RESOLUTIONS; MOTIONS

Rule 61 Resolutions and Motions: Form.

All resolutions shall be typewritten, dated and signed by the introducer, otherwise they shall not be considered. The Senate shall not introduce any congratulatory, commemorative or memorial resolution but shall express the sentiment contained in such resolutions by means of a suitable certificate. Motions and amendments may be verbal but shall be reduced to writing if requested by the President, and shall be read from the desk if so ordered.

**RULES OF THE
HOUSE OF REPRESENTATIVES**

STATE OF HAWAII

THE TWENTY-NINTH STATE LEGISLATURE

2017-2018

AS AMENDED BY SPECIAL SESSION 2017

EXHIBIT “B”

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PART VII. BILLS AND RESOLUTIONS

Rule 33. Form: Bills, Resolutions, and Amendments

- 33.1.** All bills and resolutions to be introduced shall be submitted in the form and in the number of copies designated by the Clerk. Short form bills may be introduced. All bills and resolutions shall be dated and signed by the introducer in black ink.
- 33.2.** Every bill introduced or reported out of any committee, which amends an existing section or subsection of the Hawaii Revised Statutes or Session Laws of Hawaii, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and stricken, and any new matter added to the section or subsection shall be underscored. However, a bill need not conform to this rule if it is: (1) a Supplemental Appropriations Bill; or (2) an amending bill the intent and effect of which can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the Speaker may allow. The Speaker may allow additional exceptions to this rule.
- 33.3.** No floor amendment to a bill shall be voted upon unless a copy of such amendment shall have been presented to the Clerk who shall prepare and distribute copies of the amendment to each member of the House present.
- 33.4.** The House shall, in concurrence with the Senate, provide for the date by which all bills to be considered in a regular session shall be introduced. This date shall precede the commencement of the mandatory recess provided for by Article III, Section 10 of the Constitution of the State of Hawaii.

Rule 34. Bills: First Reading

The first reading of a bill shall be of its title only.

Rule 35. Bills: Second Reading

On second reading, a bill may be read by title only, or, on motion, read throughout. It shall then be subject to a motion for referral to a committee. If it is referred to the Committee of the Whole instead of a special or standing committee, the chair of the Committee of the Whole shall set a day for its consideration. When a bill is reported by a standing committee, special committee, or the Committee of the Whole, and has passed second reading, it shall take its place in the order of business for future consideration.

Rule 36. Bills: Third or Final Reading

- 36.1.** No bill shall pass third or final reading in the House unless printed copies of the bill in the form to be passed have been made available to the members of the House for at least forty-eight hours. "Form to be passed" means the form in which a bill is to be either: (i) passed on third reading in the House; (ii) concurred to by the House after amendments have been made by the Senate; or (iii) passed by the House after a conference committee has agreed upon it.
- 36.2.** A bill on its third or final reading may be read by its title only and the Speaker shall then ask the House, "Shall this bill pass its third reading?" or "Shall this bill pass its final reading?" as the case may be. Such bill may be amended on its third reading. For the final passage of any bill, the Ayes and Noes shall be called or a vote shall be taken pursuant to Rule 51.3 and such passage shall require the affirmative vote of a majority of all members to which the House is entitled. The vote upon third reading shall be upon a motion that the bill pass third reading, rather than upon adoption of a committee report, so that amendments to the bill may be offered at third reading and voted upon.
- 36.3.** The House shall not concur with substantive amendments made by the Senate to a House bill until the chair of the standing committee having primary responsibility for the subject matter contained in the bill has granted prior concurrence to such amendments as provided for under Rule 13.1.

Rule 37. Bills: Recall from Committee

- 37.1.** Any bill that has been referred to a committee may be recalled from that committee twenty days after referral, if one-third of the members to which the House is entitled vote in favor of the recall.
- 37.2.** No parliamentary rule or procedure may supersede the constitutional right of recall of a bill from committee.

Rule 38. Bills: Certification

- 38.1.** When the House passes a bill, the Speaker and the Clerk shall certify it and note the day of its passage at the bottom of the last page of the bill.

- 38.2.** When a bill introduced in the House passes third reading in the House, the Speaker and the Clerk shall immediately send it to the Senate. Likewise, they shall send to the Senate any bill which the House receives from the Senate, amends, and passes on third reading in the House. Likewise, they shall send to the Senate any bill introduced in the Senate in the first regular session of a Legislature which passes third reading in the House in the second regular session of the same Legislature.

Rule 39. Bills and Resolutions: Order of Consideration

- 39.1.** The Clerk shall send bills that have passed first reading to be printed immediately. When they have been printed and circulated to the members of the House, the Speaker shall refer them to the various committees. When the committees have considered them and reported on them, the committees shall return them to the Clerk, and the Clerk shall place them in the second reading file. The House shall consider them in the order in which they appear in the second reading file.
- 39.2.** The Clerk shall arrange bills that have passed second reading in the order of their passage on second reading, regardless of the date of their reference to committee or the date of the committee report on them. The Clerk shall place them in the third reading file in the order in which they passed second reading, and the House shall consider them on third reading in that same order. However, if the third reading of a bill is set for some particular date, that bill shall be removed from the third reading file.
- 39.3.** The Clerk shall send all resolutions, except congratulatory resolutions, to be printed. When they have been printed and circulated among the members of the House, they shall be placed on the calendar for adoption, unless the House orders otherwise.
- 39.4.** Resolutions shall either be considered at a stated date or be referred to a committee.

Rule 40. Bills and Other Matters: Special Order of Consideration

- 40.1.** The Clerk shall place all bills and other matters which are to be considered on particular dates in a special file, in the order of dates assigned for their consideration, and the House shall consider them in that order.
- 40.2.** If the House adjourns before disposing of matters on special order, those matters shall carry over to the next day's business. The House shall then consider them under "Unfinished Business" in the Order of the Day, unless the House orders otherwise.

Rule 41. Bills: Property of the House

All bills introduced in the House shall be the property of the House.

Rule 42. Bills: Carryover Bills

42.1. Any bill pending at the final adjournment of a regular session in an odd-numbered year shall carry over with the same status to the next regular session; provided that if such bill shall have passed third reading in the House in an odd-numbered session, it shall again be placed in the third reading file and pass at least one reading in the House in the next regular session upon its return to the House from the Senate.

42.2. Bills which carry over from a regular session in an odd-numbered year to the next regular session shall retain the numbers assigned to them. The Clerk shall keep a record of the status of all bills in possession of the House at the end of the session in odd-numbered years and shall publish the record of the status of all such bills prior to the convening of the next regular session.

Rule 43. Bills Pre-Filing

The Clerk shall accept bills to be pre-filed within seven calendar days before the commencement of the regular session in the even-numbered year.

Rule 43a. Bills: Corrections of Errors

When a bill has passed the House and the Senate and an error in it is discovered prior to its having received approval of the Governor, the bill may be returned by concurrent resolution in the house last considering the bill for proper correction.

JAN 24 2018

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 8, First Special Session Laws of Hawaii
2 2007 (Act 8), enacted the Community Safety Act, which was
3 codified as chapter 353H, Hawaii Revised Statutes. The
4 Community Safety Act established a comprehensive offender
5 reentry system under the purview of the department of public
6 safety. Act 8 also required the department of public safety to
7 submit to the legislature annual reports through 2010 relating
8 to the implementation, progress, and effectiveness of the
9 program components specified in Act 8.

10 While the department of public safety's annual report lists
11 program activities and statistics, it does not include
12 information on program outcomes. The legislature finds that
13 performance indicators are an effective way to track the
14 progress of the comprehensive reentry system and to reflect any
15 change to the department's approach to rehabilitation and
16 reentry as mandated by Act 8.

17 The purpose of this Act is to:



(1) Require the department of public safety to establish key performance indicators or measures to be incorporated in reports that evaluate the department's efforts to improve offender reentry and rehabilitation; and

(2) Consolidate into one report other specified reports of the department of public safety.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Annual corrections and program report. (a) No later than twenty days prior to the convening of each regular session, beginning with the regular session of 2019, the department shall submit an annual corrections and program report, among other reports that may be required from time to time, that consolidates into one report the reports required by the following laws:

(1) Act 144, Session Laws of Hawaii 2007, section 4, relating to mental health services for committed persons;



1 (2) Act 213, Session Laws of Hawaii 2007, section 105,
2 relating to mental health services at certain
3 correctional facilities;

4 (3) Act 240, Session Laws of Hawaii 2008, section 5,
5 relating to children of incarcerated persons;

6 (4) Act 193, Session Laws of Hawaii 2010, relating to
7 cognitive restructuring;

8 (5) Section 353H- , relating to key performance
9 indicators; and

10 (6) Section 367D-8, relating to gender-responsive programs
11 for women;

12 provided that the repeal or expiration of any individual
13 reporting requirement described in paragraphs (1) through (6)
14 shall not repeal or otherwise affect the department's duty to
15 submit the same report pursuant to this section.

16 (b) The department shall post the report electronically on
17 the department's website in a timely manner."

18 SECTION 3. Chapter 353H, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§353H- Key performance indicators; reporting. (a)

2 The department shall develop key performance indicators that
3 accurately reflect progress toward specific goals, including:

4 (1) Reducing the rate of recidivism;

5 (2) Decreasing prisoner assaults on correctional staff;

6 (3) Reducing correctional staff turnover; and

7 (4) Improving departmental efficiencies in staffing,
8 budgeting, and data management and analysis.

9 (b) The department shall submit a report to the
10 legislature no later than twenty days prior to the convening of
11 each regular session, beginning with the regular session of
12 2019. Each report shall reference key performance indicators
13 for that period that track rehabilitation and reentry efforts
14 for individuals who are prepared to exit the correctional
15 system.

16 (c) The key performance indicators shall include:

17 (1) The total number of intakes, by month, including how
18 many intakes in each month have been in the system
19 within the last year and the last five years;



- 1 (2) Offender demographics, including gender, race, age,
2 crime type, and whether the offender was placed in
3 jail or prison;
- 4 (3) The number of individuals who have obtained a high
5 school diploma by successfully completing the general
6 educational development test or an equivalent
7 competency-based diploma;
- 8 (4) The number of individuals who received vocational
9 training or rehabilitation and the type of vocational
10 training or rehabilitation;
- 11 (5) The number of inmates with substance abuse problems,
12 including the type of dependence or addiction, the
13 total number of inmates with substance abuse problems,
14 and the total number of inmates with no reported
15 substance issues;
- 16 (6) Drug test failure rates of inmates while incarcerated
17 and while on parole;
- 18 (7) The number of individuals who have completed a drug
19 treatment program provided by the department;
- 20 (8) The number of individuals who have completed
21 restorative circles;



- 1 (9) The cost per inmate per day, per facility;
2 (10) The median length of stay, excluding inmates who have
3 life or parole sentences;
4 (11) The total number of inmates released, by month;
5 (12) The number of individuals for whom a reentry plan is
6 filed and the number of individuals who exit jail or
7 prison with a reentry plan; and
8 (13) The prison population forecast for the next decade.
9 (d) The department shall post the reports electronically
10 on the department's website in a timely manner."

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.

13 INTRODUCED BY:

Clarence W. Bush

[Signature]

Randy H. Bell

Will Gu



S.B. NO. 2858

Report Title:

Inmate Rehabilitation; Reentry System; Performance Indicators

Description:

Requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 107-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§107-27 Design of state buildings. (a) No later than
4 one year after the adoption of codes or standards pursuant to
5 section 107-24(c), the design of all state building construction
6 shall be in compliance with the Hawaii state building codes,
7 except state building construction shall be allowed to be
8 exempted from:

- 9 (1) County codes that have not adopted the Hawaii state
10 building codes;
- 11 (2) Any county code amendments that are inconsistent with
12 the minimum performance objectives of the Hawaii state
13 building codes or the objectives enumerated in this
14 part; or
- 15 (3) Any county code amendments that are contrary to code
16 amendments adopted by another county.



1 (b) Exemptions shall include county ordinances allowing
2 the exercise of indigenous Hawaiian architecture adopted in
3 accordance with section 46-1.55.

4 (c) For state buildings constructed on or after July 1,
5 2018, the design of state buildings shall include a shelter room
6 or area that is capable of protecting individuals from category
7 3 hurricanes. The new construction shall be consistent with
8 standards issued in the Report of Recommended Statewide Public
9 Hurricane Shelter Criteria, Hurricane Shelter Criteria
10 Committee, State Civil Defense, June 24, 2014."

11 SECTION 2. New statutory material is underscored.

12 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Public Safety; Public Improvements; State Building Construction;
Disaster Preparedness; Hurricane; Standards

Description:

Requires the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes. Requires new construction to be consistent with specific standards. (SB2858 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



SB2858 SD2 HD1 CD1

Measure Title: RELATING TO PUBLIC SAFETY.
 Report Title: Public Safety; Public Improvements; State Building Design and Construction; New Public Schools; Disaster Preparedness; Hurricane; Standards
 Description: Requires the State to consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge. (CD1)
 Companion:
 Package: None
 Current Referral: PBS, FIN
 Introducer(s): NISHIHARA, BAKER, ESPERO, Wakai

<u>Sort by</u> <u>Date</u>	<u>Status</u>	<u>Text</u>
1/24/2018	S	Introduced.
1/24/2018	S	Passed First Reading.
1/24/2018	S	Referred to PSM, WAM.
1/26/2018	S	The committee(s) on PSM has scheduled a public hearing on 01-30-18 1:15PM in conference room 229.
1/30/2018	S	The committee(s) on PSM deferred the measure until 02-06-18 1:15PM in conference room 229.
2/6/2018	S	The committee(s) on PSM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in PSM were as follows: 5 Aye(s): Senator(s) Nishihara, Wakai, Baker, Ihara, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/9/2018	S	Reported from PSM (Stand. Com. Rep. No. 2168) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/9/2018	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/16/2018	S	The committee(s) on WAM will hold a public decision making on 02-23-18 10:00AM in conference room 211.
2/23/2018	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 9 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Galuteria, Harimoto, Inouye, Kidani, Riviere, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) K. Kahele, Shimabukuro.
3/2/2018	S	Reported from WAM (Stand. Com. Rep. No. 2714) with recommendation of passage on Third Reading, as amended (SD 2).
3/2/2018	S	48 Hrs. Notice 03-06-18.
3/6/2018	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/6/2018	H	Received from Senate (Sen. Com. No. 339) in amended form (SD 2).
3/8/2018	H	Pass First Reading
3/8/2018	H	Referred to PBS, FIN, referral sheet 36
3/13/2018	H	Bill scheduled to be heard by PBS on Thursday, 03-15-18 10:30AM in House conference room 312.
3/15/2018	H	The committees on PBS recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Takayama, Gates, Creagan, Say, Thielen; Ayes with reservations: none; 0 Noes: none; and 2 Excused: Representative(s) DeCoite, Ing.
3/21/2018	H	Reported from PBS (Stand. Com. Rep. No. 1255-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
3/21/2018	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and Representative(s) Ing, C. Lee, McKelvey, Souki, Todd, Ward excused (6).

EXHIBIT "E"

3/28/2018	H	The committees on FIN recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 13 Ayes: Representative(s) Luke, Cullen, Cachola, DeColte, Fukumoto, Gates, Keohokalole, Lowen, Nakamura, Yamashita, Ward; Ayes with reservations: Representative(s) Holt, Todd; 1 Noes: Representative(s) Kobayashi; and 1 Excused: Representative(s) Tupola.
4/6/2018	H	Reported from FIN (Stand. Com. Rep. No. 1912-18), recommending passage on Third Reading.
4/6/2018	H	Passed Third Reading with Representative(s) Har, Tupola voting aye with reservations; Representative(s) Kobayashi, Nakamura voting no (2) and Representative(s) Holt excused (1). Transmitted to Senate.
4/10/2018	S	Received from House (Hse. Com. No. 531).
4/10/2018	S	Senate disagrees with House amendments.
4/10/2018	H	Received notice of disagreement (Sen. Com. No. 778).
4/16/2018	H	House Conferees Appointed: Takayama, Gates Co-Chairs; Yamashita, Thielen.
4/16/2018	S	Received notice of appointment of House conferees (Hse. Com. No. 610).
4/18/2018	S	Senate Conferees Appointed: Nishihara Chair; Shimabukuro Co-Chair; L. Thielen.
4/18/2018	H	Received notice of Senate conferees (Sen. Com. No. 794).
4/23/2018	S	Conference committee meeting scheduled for 04-25-18 10:00AM in conference room 016.
4/25/2018	S	Conference committee meeting to reconvene on 04-26-18 10:00AM in conference room 016.
4/26/2018	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 3 Aye(s): Senator(s) Nishihara, Shimabukuro, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/26/2018	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 3 Ayes: Representative(s) Takayama, Gates, Yamashita; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Thielen.
4/27/2018	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 93-18).
4/27/2018	S	48 Hrs. Notice (as amended CD 1) 05-01-18.
4/27/2018	H	Reported from Conference Committee (Conf Com. Rep. No. 93-18) as amended in (CD 1).
4/27/2018	H	Forty-eight (48) hours notice Tuesday, 05-01-18.
5/1/2018	H	Passed Final Reading as amended in CD 1 with none voting aye with reservations; none voting no (0) and none excused (0).
5/1/2018	S	Passed Final Reading, as amended (CD 1). Ayes, 25; Aye(s) with reservations: none ; 0 No(es): none. 0 Excused: none.
5/1/2018	H	Received notice of Final Reading (Sen. Com. No. 849).
5/3/2018	S	Received notice of passage on Final Reading in House (Hse. Com. No. 705).
5/3/2018	S	Enrolled to Governor.
7/5/2018	H	Act 084, on 06/29/2018 (Gov. Msg. No. 1185).
7/5/2018	S	Act 084, 06/29/2018 (Gov. Msg. No. 1185).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB2858 SD2 HD1 CD1

Honolulu, Hawaii

MAR 21, 2018

RE: S.B. No. 2858
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Public Safety, to which was referred S.B. No. 2858, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose of this measure is to improve the efficacy of the State's corrections program. Specifically, this measure:

- (1) Requires the Department of Public Safety to establish key performance indicators that evaluate the Department's efforts to improve offender reentry and rehabilitation;
- (2) Requires reports, using key performance indicators, to be provided to the Legislature; and
- (3) Creates the annual corrections and program report as a consolidated report of other annual reports.

The Office of Hawaiian Affairs, Ho'omanapono Political Action Committee, Hawai'i Justice Coalition, Community Alliance on Prisons, Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii, Young Progressives Demanding Action - Hawai'i, and several concerned individuals supported this measure.




The Department of Public Safety and American Civil Liberties Union of Hawai'i offered comments.

Your Committee has amended this measure by deleting its contents and inserting the substantive provisions of House Bill No. 2452, H.D. 1, which was heard by your Committee earlier this session. Your Committee further amended this measure, and as amended, this measure ensures disaster preparedness by:

- (1) Requiring the design of all State buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes; and
- (2) Requiring new construction to be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014.

As affirmed by the record of votes of the members of your Committee on Public Safety that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 2, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,


GREG T. TANAKA, Chair



H JCR 1255-18

Bill/Resolution No.:	Committee Referral:	Date:		
SB 2850 SD2	PBS, FIN	3.15.18		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
PBS Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKAYAMA, Gregg (C)	✓			
2. GATES, Cedric Asuega (VC)	✓			
3. CREAGAN, Richard P.	✓			
4. DeCOITE, Lynn				✓
5. ING, Kaniela				✓
6. SAY, Calvin K.Y.	✓			
7. THIELEN, Cynthia	✓			
TOTAL (7)	5	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 107-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§107-27 Design of state buildings.** (a) No later than
4 one year after the adoption of codes or standards pursuant to
5 section 107-24(c), the design of all state building construction
6 shall be in compliance with the Hawaii state building codes,
7 except state building construction shall be allowed to be
8 exempted from:

9 (1) County codes that have not adopted the Hawaii state
10 building codes;

11 (2) Any county code amendments that are inconsistent with
12 the minimum performance objectives of the Hawaii state
13 building codes or the objectives enumerated in this
14 part; or

15 (3) Any county code amendments that are contrary to code
16 amendments adopted by another county.



(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55.

(c) The State shall consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.



S.B. NO. 2858
S.D. 2
H.D. 1
C.D. 1

Report Title:

Public Safety; Public Improvements; State Building Design and Construction; New Public Schools; Disaster Preparedness; Hurricane; Standards

Description:

Requires the State to consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

APR 27 2018

RE: S.B. No. 2858
S.D. 2
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2858, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Require the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes; and
- (2) Require the new construction to be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014.



Your Committee on Conference finds that ensuring that state buildings are capable of withstanding extreme weather-related events and emergencies is essential for maintaining public welfare. Your Committee on Conference further finds that public schools are particularly vulnerable to the effects of weather-related events and emergencies and situated in areas easily accessible by community members and would therefore be the ideal initial sites for enhanced building design and construction. Accordingly, your Committee on Conference finds that the State should consider relevant hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge.

Your Committee on Conference has amended this measure by:

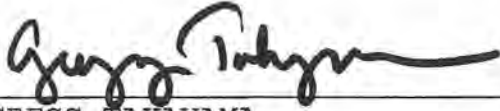
- (1) Removing language requiring the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes and that the new construction be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014;
- (2) Inserting language to require the State to consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge; and
- (3) Changing the effective date to upon approval.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2858, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

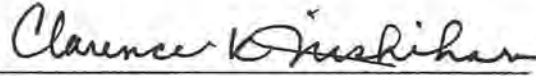


GREGG TAKAYAMA
Co-Chair



CEDRIC ASUEGA GATES
Co-Chair

ON THE PART OF THE SENATE



CLARENCE K. NISHIHARA
Chair



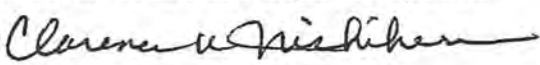
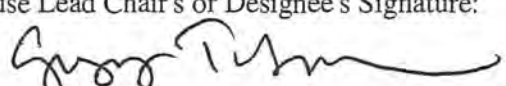
MAILE S.L. SHIMABUKURO
Co-Chair



Hawai'i State Legislature

CCR 93-18

Record of Votes of a
Conference Committee

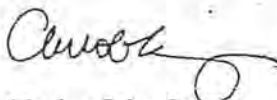
Bill / Concurrent Resolution No.: SB 2858, SD 2, HD 1					Date/Time: 4/26/18 10:10 a.m.				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
NISHIHARA, Clarence K., Chr.	✓				TAKAYAMA, Gregg, Co-Chr.	✓			
SHIMABUKURO, Maile S.L., Co-Chr.	✓				GATES, Cedric Asuega, Co-Chr.	✓			
THIELEN, Laura H.	✓				YAMASHITA, Kyle T.	✓			
					THIELEN, Cynthia				✓
TOTAL	3			0	TOTAL	3			1
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution:					Distribution:				
Original		Yellow		Pink		Goldenrod			
File with Conference Committee Report		House Clerk's Office		Senate Clerk's Office		Drafting Agency			

THE SENATE OF THE STATE OF HAWAII

Date: May 1, 2018
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.


President of the Senate


Clerk of the Senate

SB No. 2858, SD 2, HD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

EXHIBIT "J"

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Legislative Glossary

Vocabulary

Show Acronyms

Show Vocabulary

Show Both

[List of abbreviations for Hawaii Revised Statutes](#)
[List of committee acronyms](#)

Act - A bill which has passed both houses of the Legislature; been enrolled, certified, approved by the governor or passed over the governor's veto; and published.

Adjournment Sine Die - Adjournment on the last day of a regular or special legislative session.

Administration Bill - A bill prepared by the executive branch that is submitted to the Legislature for consideration.

Administrative Procedure Act - The Administrative Procedure Act (Chapter 91, Hawaii Revised Statutes) governs the adoption of rules by executive agencies in implementing acts of the Legislature.

Advise and Consent - The process by which the Senate reviews and approves executive and judicial appointments.

Amend - To alter formally by modification, deletion, or addition.

Amendment, Floor - An amendment offered to a legislative document, or to modify another amendment, presented by a legislator while the document is on the floor of that legislator's house, i.e., a "House amendment" or "Senate amendment."

Appropriation - A legislative authorization to make expenditures and incur obligations for specific governmental purposes; usually limited as to time when it may be expended. One of the prime responsibilities of the Legislature is this power to appropriate moneys.

Appropriation Bill - A proposed piece of legislation authorizing an appropriation.

Appropriation Bill-General appropriation bill - An appropriation bill covering all estimated expenses of the executive branch of state government for a fiscal biennium; initially introduced at the request of the governor.

Appropriation Bill-Supplemental appropriation bill - An appropriation bill authorizing appropriations supplementing the general appropriation act of the previous session.

Bicameral - Literally, having "two rooms," the term is used to refer to legislative bodies having two houses. In Hawaii and in the U.S. Congress, these are referred to as the House of Representatives and the Senate. The State of Nebraska, by contrast, has a unicameral legislature.

Biennium - A two-year period. This term is used to describe the two-year term of a Legislature that begins in an odd-numbered year and ends in an even-numbered year. With respect to the state budget, the fiscal biennium begins on July 1 of each odd-numbered year and ends two years later on June 30.

Bond - A certificate of indebtedness issued by the government in return for money it has borrowed; a promise to pay a specified sum of money at a fixed time in the future and carrying interest at a fixed rate.

EXHIBIT "K"

Bond-General obligation bonds - Bonds for whose payment the full faith and credit of the issuing government are pledged.

Bond-Revenue bonds - A bond which is to be paid off by revenues produced from the facility it finances, such as user fees for a parking garage or room fees for a student dormitory.

Budget - A plan for expending funds by program for a given fiscal year or biennium and the means of financing the expenditures.

Budget-Capital improvement budget - A budget plan of major capital expenditures for land acquisition, equipment, plans, design, and construction and the method of financing them.

Budget-Operating budget - A budget which applies to all expenditures other than capital expenditures for general governmental expenses.

By Request - These words or the initials, BR, follow the name of the introducer of a legislative measure to indicate that the introducer does not necessarily endorse the measure but is introducing it as a courtesy.

Carry-Over Bills - Any bill pending at the final adjournment of a regular session in the first year of the biennium (odd-numbered year) carries over with the same status to the regular session of the second year of the biennium, provided that it passes at least one reading in the House in the next regular session upon its return to the House from the Senate (or vice versa with the chambers).

Caucus - Conference of members of a legislative group to decide on policies or strategies; most commonly, a "party caucus" is for members of one or another political party.

Committee - A group of legislators, usually members of the same house, assigned to consider a subject or issue and to submit a report on its recommendations for action by the body which created it. All committees are appointed by the president of the Senate or the speaker of the House.

Committee Report - A document that a committee uses from time to time to report on matters referred to it. The document usually states findings of facts and conclusions, together with a distinct recommendation as to the disposal of the matter.

Committee-Conference Committees - are appointed from both houses to reach agreement on a measure for final approval by both houses once it has been passed in differing versions by each house.

Committee-Special Committees - are temporary and are established either by the speaker or president by resolution or by any other legal means to consider one special subject or bill. They come to an end when they have performed the purpose for which they were established.

Committee-Standing Committees - are established by the rules of the House and Senate to address particular areas such as health, transportation, or education.

Companion Bill - Two bills identical in wording that are introduced in each house. They will most likely not have the same number. Some companion bill sponsors feel it will increase the chances for the passage of the bill.

Conflict of Interest - Any interest, financial or otherwise, any business or professional activity, or any obligation which is incompatible with the proper discharge of a legislator's duties in the public interest.

Congratulatory Certificate - A document used by legislators to acknowledge the deeds of constituents, visiting dignitaries, civic organizations, and other exemplary individuals or organizations.

Constitution - The written instrument embodying the fundamental principles of the state that establishes power and duties of the government and guarantees certain rights to the people.

Crossover - Deadline for bills or resolutions to move, or crossover, to the other house for consideration.

Cutoff Dates - Deadline set by a legislative body for specified action, such as bill introduction, committee action, or initial passage of bills by either house.

Decking - Refers to the time when a bill is in its final form in which it is intended to be passed is made available to members of the Legislature for 48 hours prior to being voted on for passage.

Disagree - Refers to the deadline for either house to disagree to the amendments made to its bill by the other body.

Effective Date - The date a bill, once passed, becomes law. Unless a different date is specified, bills become law when approved.

Enacting Clause - The clause required by the Hawaii Constitution to head all bills: "Be it enacted by the Legislature of the State of Hawaii," which formally expresses the legislative sanction.

Engrossment - The preparation of an exact, accurate, and official copy of a measure in the house of origin along with amendments and proper signatures; then dispatched to the other house.

Enrollment - Signifies that a bill has been engrossed by both houses. This is the last legislative action taken on a bill unless it is reconsidered after objection by the governor.

Fiscal Year - The period used for budgeting and accounting. In Hawaii State government, this period is from July 1 of one calendar year to June 30 of the next calendar year.

Floor - Reference to the interior of the chamber of either house. Floor action suggests consideration by the entire House or Senate rather than committee action.

Hearing, Public - A formal session of a legislative committee, whereby interested members of the public are invited to present testimony on a proposal; distinguished from an informational briefing, which the public is usually allowed to attend but not present testimony.

Held in Committee - The defeat of a measure by the decision of a standing committee not to return it to the full house for further consideration.

House - Generally, either body or chamber of the Legislature. (If capitalized, it refers to the House of Representatives).

House Rules - Rules of procedure adopted by the House of Representatives governing procedures in that body, such as duties of House officers, rights and duties of members, and floor procedures.

Initiative - A procedure by which the general public may directly vote on proposed laws.

Introduction - The transmittal of a bill from a representative's or senator's office to the respective chief clerk's office for acceptance and numbering.

Joint Committee - A committee composed of a specified number of members of both houses.

Journal - The official chronological record of the proceedings of the Senate and House, certified, indexed, printed, and bound at the close of each session.

Lateral - Deadline by which a bill must move to the final referral committee ("lateral" because the bills move "sideways"--from one committee to another within each house--rather than "forward" from the House to the Senate or vice versa). This deadline is not shown on the Legislative Timetable because it is subject to change. Please contact the Public Access Room (808)587-0478, House Clerk's Office (808)586-6400, or Senate Clerk's Office (808)586-6720 for the current lateral deadline date.

Measure - Any matter before a body such as a bill or resolution.

Prior Concurrence - The consent which must first be obtained by the second committee hearing a bill from the first committee before any substantive change is made to the recommendations of such committee.

Proviso - A clause used in the executive budget bill to specify a particular use of a portion of an amount appropriated to a broad program.

Quorum - The number of members of a house, committee, or other group that must be present before the group may conduct official business.

Re-Referral - The act of reconsidering the referral of a measure to a committee or committees.

Reading - A vote by the entire House or Senate on a bill or resolution. Approval of a bill requires three readings by the House and three readings by the Senate.

Recall - The procedure by which any bill referred to a committee may be removed from that committee's jurisdiction 20 days after referral if one-third of the House (or Senate) members votes in favor of this action.

Recommittal - The sending of a measure back to the committee which reported it out for further consideration.

Reconsideration - The act of requesting the return of a measure sent to the second house or to the governor, but not yet enacted into law, for the purpose of reconsidering the action taken on that measure.

Referendum - The principle or practice of submitting a law to popular vote after the filing of a petition expressing the wish of the people to vote on such law.

Referral - The sending or referring of a measure to a committee or committees.

Reporting Out - Action by a committee on a measure which moves the measure out of the committee.

Resolution - A measure expressing the will, wish, or direction of the Legislature. It does not have the effect of law.

Resolution-Concurrent Resolution - A resolution which requests action or states the Legislature's position on an issue.

Resolution-Congratulatory Resolution - A nonsubstantive resolution which congratulates a worthy constituent, agency, private establishment, or visiting dignitary for exemplary deeds.

Resolution-Memorial Resolution - A nonsubstantive resolution used to convey the sympathy and condolences of the Legislature on the passing of a constituent or a dignitary.

Resolution-Nonsubstantive Resolution - A resolution which congratulates or conveys the condolences of the Legislature.

Resolution-Substantive Resolution - A resolution which requests action or states the Legislature's position on an issue.

Session-Regular - The Legislature convenes each year on the third Wednesday in January for 60 legislative days. Each legislature has a duration of two years.

Session-Special - May be called by the governor or at the written request of two thirds of the members to which each house is entitled. The governor may convene both houses or the Senate alone in special session. Special session is limited to a period of 30 days and may be extended a total of not more than 15 days.

Severability Clause - A section of a bill that instructs the court that if one section of the act is found unconstitutional, the remainder of the act will remain intact.

Short-Form Bills - Bills that contain only a reference to the general idea of the subject and contemplates the subsequent drafting of the specific details in long form.

Sine Die - To adjourn on the last day of a regular or special session.

Statutes - The codified body of law known as the Hawaii Revised Statutes.

Sunset Law - A provision shutting off a program or agency on a specific date, requiring reexamination and a fresh authorization prior to that date to continue.

Veto - A power vested in the governor to prevent the enactment of measures passed by the Legislature by returning them, with objections, to the Legislature.

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 107-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§107-27 Design of state buildings. (a) No later than
4 one year after the adoption of codes or standards pursuant to
5 section 107-24(c), the design of all state building construction
6 shall be in compliance with the Hawaii state building codes,
7 except state building construction shall be allowed to be
8 exempted from:

- 9 (1) County codes that have not adopted the Hawaii state
10 building codes;
- 11 (2) Any county code amendments that are inconsistent with
12 the minimum performance objectives of the Hawaii state
13 building codes or the objectives enumerated in this
14 part; or
- 15 (3) Any county code amendments that are contrary to code
16 amendments adopted by another county.



1 (b) Exemptions shall include county ordinances allowing
2 the exercise of indigenous Hawaiian architecture adopted in
3 accordance with section 46-1.55.

4 (c) For state buildings constructed on or after July 1,
5 2018, the design of state buildings shall include a shelter room
6 or area that is capable of protecting individuals from category
7 3 hurricanes."

8 SECTION 2. New statutory material is underscored.

9 SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Public Safety; Public Improvements; State Building Construction;
Disaster Preparedness; Hurricane

Description:

Requires the design of all state buildings constructed on or
after July 1, 2018, to include a shelter room or area that is
capable of protecting individuals from Category 3 hurricanes.
(HB2452 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is
not legislation or evidence of legislative intent.*



HB2452 HD1

Measure Title: RELATING TO PUBLIC SAFETY.

Report Title: Public Safety; Public Improvements; State Building Construction; Disaster Preparedness; Hurricane

Description: Requires the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes. (HB2452 HD1)

Companion:

Package: None

Current Referral: GVO/PSM, WAM

Introducer(s): TAKAYAMA, CREAGAN, THIELEN, Gates, Ing

<u>Sort by</u> <u>Date</u>	<u>Status Text</u>
1/23/2018	H Pending introduction.
1/24/2018	H Introduced and Pass First Reading.
1/29/2018	H Referred to PBS/VMI, FIN, referral sheet 9
2/5/2018	H Bill scheduled to be heard by PBS/VMI on Thursday, 02-08-18 9:05AM in House conference room 312.
2/8/2018	H The committees on PBS recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 6 Ayes: Representative(s) Takayama, Gates, Creagan, DeCoite, Say, Thielen; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Ing.
2/8/2018	H The committees on VMI recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 9 Ayes: Representative(s) LoPresti, Fukumoto, Cachola, Choy, Ito, Ohno, Onishi, Tokioka, Woodson; Ayes with reservations: none; 1 Noes: Representative(s) Ward; and Excused: none.
2/13/2018	H Reported from PBS/VMI (Stand. Com. Rep. No. 314-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
2/13/2018	H Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with Representative(s) Ward voting aye with reservations; none voting no (0) and Representative(s) Souki excused (1).
2/14/2018	H Bill scheduled to be heard by FIN on Friday, 02-16-18 2:00PM in House conference room 308.
2/16/2018	H The committees on FIN recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 12 Ayes: Representative(s) Luke, Cullen, Cachola, Fukumoto, Gates, Keohokalole, Lowen, Todd, Yamashita, Tupola, Ward; Ayes with reservations: Representative(s) Holt; 1 Noes: Representative(s) Kobayashi; and 2 Excused: Representative(s) DeCoite, Nakamura.
2/21/2018	H Reported from FIN (Stand. Com. Rep. No. 795-18), recommending passage on Third Reading.
2/21/2018	H Passed Third Reading with Representative(s) Choy, Holt, Ward voting aye with reservations; none voting no (0) and Representative(s) Yamane excused (1). Transmitted to Senate.
3/1/2018	S Received from House (Hse. Com. No. 40).
3/1/2018	S Passed First Reading.
3/1/2018	S Referred to GVO/PSM, WAM.

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HB2452 HD1

EXHIBIT "M"

A BILL FOR AN ACT

RELATING TO THE STATE BUDGET.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. Notwithstanding the provisions of chapter 328L, Hawaii Revised Statutes, all non-participating manufacturer adjustment moneys received by the State in calendar year 2018 that relate to compliance with the tobacco master settlement agreement from calendar years 2004 to 2017 and have been withheld from the State during any disputed years shall be deposited into the emergency and budget reserve fund established pursuant to section 328L-3, Hawaii Revised Statutes.

SECTION 2. The legislature enacted Act 84, Session Laws of Hawaii 2015, which converted funding for department of land and natural resources programs from special funds to general funds. The legislature finds that there is \$15,307,518 unencumbered in the natural area reserve fund, established under section 195-9, Hawaii Revised Statutes. On July 1, 2018, the director of finance shall transfer from the natural area reserve fund to the general fund the sum of \$15,307,518 or so much thereof as may be necessary for fiscal year 2018-2019.



1 SECTION 3. The legislature finds that there is at least
2 \$18,929,462 in excess of the requirements of the tobacco
3 settlement special fund. Notwithstanding the provisions of
4 chapter 328L, Hawaii Revised Statutes, this sum shall be
5 utilized to provide revenue to the Hawaii tobacco prevention and
6 control trust fund, established under section 328L-5, Hawaii
7 Revised Statutes, and the university revenue-undertakings fund,
8 established under section 304A-2167.5, Hawaii Revised Statutes,
9 to supplant any losses that result from any discount or
10 reduction taken against regular master settlement agreement
11 payments received by the State between calendar year 2018 and
12 calendar year 2022; provided that the Hawaii tobacco prevention
13 and control trust fund shall have priority over other programs
14 in the event that any remaining sums are insufficient to
15 supplant reductions.

16 PART II

17 SECTION 4. The legislature finds that the county of Kauai
18 and portions of the city and county of Honolulu suffered a
19 disastrous occurrence of heavy rains and flooding in April 2018,
20 that caused extensive damage to the slopes adjacent to Kuhio
21 Highway and impacted the communities of Wainiha, Haena, and



1 other regions in the county of Kauai, as well as other areas of
2 the State, thereby endangering the health, safety, and welfare
3 of the people. This severe, sudden, and extraordinary weather
4 event of heavy rains and flooding has caused damage, losses, and
5 suffering, which has affected the health, welfare, and living
6 conditions of a substantial number of persons, and is of such a
7 serious nature as to warrant rehabilitative assistance from the
8 State.

9 The purpose of this part is to appropriate funds to the
10 department of defense for disaster relief efforts in the county
11 of Kauai and other areas of the State that have been adversely
12 impacted by the extraordinary weather event that occurred in
13 April 2018.

14 SECTION 5. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$100,000,000 or so
16 much thereof as may be necessary for fiscal year 2017-2018 to
17 protect the health, safety, and welfare of the people, and
18 provide relief from disaster damages, losses, and suffering
19 caused by the extraordinary weather event that produced
20 torrential rains and resultant flooding in the county of Kauai
21 in April 2018.



1 The sum appropriated shall be allotted to the department of
2 defense and expended by the adjutant general solely for the
3 express stated purposes of this part; provided that the moneys
4 appropriated pursuant to this section shall not lapse at the end
5 of the fiscal year for which the moneys have been appropriated;
6 provided further that any moneys appropriated pursuant to this
7 section that are unencumbered as of June 30, 2019, shall lapse
8 on that date.

9 SECTION 6. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$25,000,000 or so
11 much thereof as may be necessary for fiscal year 2017-2018 to
12 protect the health, safety, and welfare of the people, and
13 provide relief from disaster damages, losses, and suffering
14 caused by the extraordinary weather event that produced
15 torrential rains and resultant flooding in areas of the State
16 other than the county of Kauai in April 2018.

17 The sum appropriated shall be allotted to the department of
18 defense and expended by the adjutant general solely for the
19 express stated purposes of this part; provided that the moneys
20 appropriated pursuant to this section shall not lapse at the end
21 of the fiscal year for which the moneys have been appropriated;



1 provided further that any moneys appropriated pursuant to this
2 section that are unencumbered as of June 30, 2019, shall lapse
3 on that date.

4 SECTION 7. (a) Moneys appropriated pursuant to this part
5 shall be expended in accordance with section 127A-12(b), Hawaii
6 Revised Statutes, as the adjutant general and governor deem
7 appropriate.

8 (b) The appropriations and expenditures made pursuant to
9 this part shall not be subject to the expenditure limitations
10 established in section 127A-16, Hawaii Revised Statutes.

11 PART III

12 SECTION 8. This Act shall take effect upon its approval.



Report Title:

State Budget; Natural Area Reserve Fund; Tobacco Master Settlement Agreement; Tobacco Settlement Special Fund; Hawaii Tobacco Prevention and Control Trust Fund; University Revenue-Undertakings Fund; Disaster Relief Appropriation; DOD; County of Kauai Flooding and Flooding in Other Areas of the State

Description:

Deposits moneys received in 2018 pursuant to the Tobacco Master Settlement Agreement into the Emergency and Budget Reserve Fund. Specifies that Tobacco Settlement Special Fund excess moneys shall be used to supplant any losses that result from any discount or reduction taken against regular Master Settlement Agreement payments received by the State between calendar years 2018 and 2022. Authorizes the Director of Finance to transfer excess balances from the Natural Area Reserve Fund into the general fund. Appropriates moneys in fiscal year 2017-2018 to the Department of Defense for disaster and flood relief for the County of Kauai and other areas of the State. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

APR 19 2018

RE: S.B. No. 192
S.D. 1
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 192, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE STATE BUDGET,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to manage state finances.

More specifically, the measure:

- (1) Deposits settlement moneys received in 2018 that relate to compliance with the Tobacco Master Settlement Agreement from calendar years 2004 to 2017 into the emergency and budget reserve fund;
- (2) Authorizes the Director of Finance to transfer moneys in the natural area reserve fund that are in excess of the needs of that reserve fund into the general fund;



- (3) Provides that moneys in the tobacco settlement special fund that are in excess of the needs of that special fund shall provide revenue to the Hawaii tobacco prevention and control trust fund and the university revenue-undertakings fund; and
- (4) Specifies that moneys in the tobacco settlement special fund that are in excess of the needs of that special fund are to be used to supplant any losses that result from any discount or reduction taken against regular master settlement agreement payments received by the State between calendar years 2018 and 2022.

Your Committee on Conference finds that depositing and authorizing the transfer and utilization of revenues as described above is prudent and in the best interest of the State.

Your Committee on Conference also finds that an extraordinary weather event of torrential rains caused widespread flooding and serious damage in the County of Kauai and portions of the City and County of Honolulu in April 2018. On the island of Kauai, the rains caused extensive damage to the slopes adjacent to Kuhio Highway, and impacted the communities of Wainiha, Haena, and other regions. In the City and County of Honolulu, the rains caused serious damage in Waimanalo and East Honolulu. At this point, it is unclear if other areas of the State have been severely impacted as well.

Your Committee on Conference further finds that the severe, sudden, and extraordinary weather event caused damage, losses, and suffering that affected the health, welfare, and living conditions of a substantial number of persons, and is of such a nature as to warrant rehabilitative assistance from the State.

Your Committee on Conference has amended this measure by appropriating moneys to the Department of Defense for disaster relief efforts in the County of Kauai and other areas of the State that have been adversely impacted by the extraordinary weather event that occurred in April 2018.

More specifically, the measure appropriates moneys to protect the health, safety, and welfare of the people, and provide relief from disaster damages, losses, and suffering, as follows:

- (1) \$100,000,000 to be expended in the County of Kauai; and




- (2) \$25,000,000 to be expended in areas of the State other than Kauai.


As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 192, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 192, S.D. 1, H.D. 1, C.D. 1.


Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE


SYLVIA LUKE
Chair

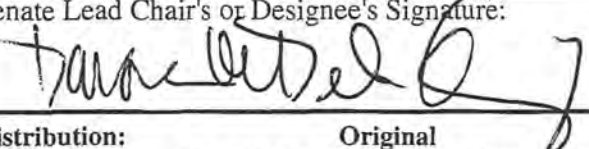
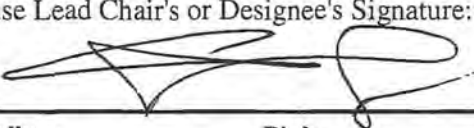
ON THE PART OF THE SENATE


DONOVAN M. DELA CRUZ
Chair


GILBERT S.C. KEITH-AGARAN
Co-Chair



Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 192, SD 1, HD 1					Date/Time: April 18, 2018 2:34 pm				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
DELA CRUZ, Donovan M., Chr.	✓				LUKE, Sylvia, Chr.	✓			
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				CULLEN, Ty J.K.	✓			
GALUTERIA, Brickwood	✓				MORIKAWA, Dee	✓			
					NAKAMURA, Nadine K.	✓			
					WARD, Gene	✓			
TOTAL	3				TOTAL	5			
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution: Original					Yellow				
File with Conference Committee Report					House Clerk's Office				
					Pink				
					Senate Clerk's Office				
					Goldenrod				
					Drafting Agency				

SB192 SD1 HD1 CD1

Measure Title: RELATING TO THE STATE BUDGET.

Report Title: State Budget; Natural Area Reserve Fund; Tobacco Master Settlement Agreement; Tobacco Settlement Special Fund; Hawaii Tobacco Prevention and Control Trust Fund; University Revenue-Undertakings Fund; Disaster Relief Appropriation; DOD; County of Kauai Flooding and Flooding in Other Areas of the State (\$)

Description: Deposits moneys received in 2018 pursuant to the Tobacco Master Settlement Agreement into the Emergency and Budget Reserve Fund. Specifies that Tobacco Settlement Special Fund excess moneys shall be used to supplant any losses that result from any discount or reduction taken against regular Master Settlement Agreement payments received by the State between calendar years 2018 and 2022. Authorizes the Director of Finance to transfer excess balances from the Natural Area Reserve Fund into the general fund. Appropriates moneys in fiscal year 2017-2018 to the Department of Defense for disaster and flood relief for the County of Kauai and other areas of the State. (CD1)

Companion: HB100

Package: Governor

Current Referral: FIN

Introducer(s): KOUCHI (Introduced by request of another party)

<u>Sort by</u> <u>Date</u>	<u>Status Text</u>
1/20/2017	S Introduced.
1/20/2017	S Passed First Reading.
1/20/2017	S Referred to WAM.
11/30/2017	D Carried over to 2018 Regular Session.
2/23/2018	S The committee(s) on WAM has scheduled a public hearing on 02-28-18 10:30AM in conference room 211.
2/28/2018	S The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 11 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Galuteria, Harimoto, Inouye, K. Kahale, Kidani, Riviere, Shimabukuro, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
3/2/2018	S Reported from WAM (Stand. Com. Rep. No. 2654) with recommendation of passage on Second Reading, as amended (SD 1) and placement on the calendar for Third Reading.
3/2/2018	S Report adopted; Passed Second Reading, as amended (SD 1).
3/2/2018	S 48 Hrs. Notice 03-06-18.
3/6/2018	S Passed Third Reading, as amended (SD 1). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/6/2018	H Received from Senate (Sen. Com. No. 56) in amended form (SD 1).
3/8/2018	H Pass First Reading
3/8/2018	H Referred to FIN, referral sheet 35
4/2/2018	H Proposed draft of Bill scheduled to be heard by FIN on Wednesday, 04-04-18 1:30PM in House conference room 308. Copy of proposed draft available at www.capitol.hawaii.gov .
4/4/2018	H The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 10 Ayes: Representative(s) Luke, Cullen, Cachola, DeCoite, Keohokalole, Kobayashi, Lowen, Nakamura, Yamashita, Ward; Ayes with reservations: none; Noes: none; and 5 Excused: Representative(s) Fukumoto, Gates, Holt, Todd, Tupola.
4/6/2018	H Reported from FIN (Stand. Com. Rep. No. 1941-18) as amended in HD 1, recommending passage on Second Reading and placement on the calendar for Third Reading.
4/6/2018	H Passed Second Reading as amended in HD 1; placed on the calendar for Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Choy, Holt excused (2).
4/10/2018	H Passed Third Reading with Representative(s) Thielen, Tokioka voting aye with reservations; Representative(s) Ito, Say voting no (2) and none excused (0). Transmitted to Senate.
4/10/2018	S Received from House (Hse. Com. No. 550).
4/12/2018	S Senate disagrees with House amendments.

EXHIBIT "P"

4/12/2018	H	Received notice of disagreement (Sen. Com. No. 784).
4/16/2018	H	House Conferees Appointed: Luke Chair; Cullen, Ward.
4/16/2018	S	Received notice of appointment of House conferees (Hse. Com. No. 610).
4/17/2018	S	Senate Conferees Appointed: Dela Cruz Chair; Keith-Agaran Co-Chair; Galuteria.
4/17/2018	S	Conference committee meeting scheduled for 04-18-18 2:15PM in conference room 309.
4/17/2018	H	Received notice of Senate conferees (Sen. Com. No. 788).
4/17/2018	H	House Conferees Added: Representatives Morikawa, Nakamura added as Conferees.
4/18/2018	S	Received notice of change in conferees (Hse. Com. No. 625).
4/18/2018	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 3 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, Galuteria; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/18/2018	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 5 Ayes: Representative(s) Luke, Cullen, Morikawa, Nakamura, Ward; Ayes with reservations: none; 0 Noes: none; and 0 Excused: none.
4/19/2018	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 1-18).
4/19/2018	H	Reported from Conference Committee (Conf Com. Rep. No. 1-18) as amended in (CD 1).
4/19/2018	H	Forty-eight (48) hours notice Monday, 04-23-18.
4/19/2018	S	48 Hrs. Notice (as amended CD 1) 04-23-18.
4/23/2018	H	Deferred two days 04-25-18.
4/23/2018	S	Deferred until 04-25-18.
4/25/2018	S	Passed Final Reading, as amended (CD 1). Ayes, 24; Aye(s) with reservations: Senator(s) Ihara, L. Thielen . 0 No(es): none. 1 Excused: Senator(s) Harimoto.
4/25/2018	H	Passed Final Reading as amended in CD 1 with none voting aye with reservations; none voting no (0) and Representative(s) Holt, Quinlan excused (2).
4/25/2018	H	Received notice of Final Reading (Sen. Com. No. 840).
4/26/2018	S	Enrolled to Governor.
4/26/2018	S	Received notice of passage on Final Reading in House (Hse. Com. No. 676).
5/10/2018	H	Act 012, on 05/10/2018 (Gov. Msg. No. 1112).
5/10/2018	S	Act 012, 05/10/2018 (Gov. Msg. No. 1112).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB192 SD1 HD1 CD1

A BILL FOR AN ACT

RELATING TO HOMELESSNESS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. Ohana is a group of closely- or distantly-related people who share nearly everything, from land and food to responsibility for taking care of children and elders. Members of an ohana, whether or not related by blood, treat each other as extended family and share generously with each other. The legislature finds that building upon this ethic of ohana presents an opportunity to improve the lives of people experiencing homelessness.

The legislature also finds that, while significant strides have been made, current attempts to address homelessness in Hawaii remain insufficient. Hawaii continues to have the highest number of individuals experiencing homelessness per capita of any state in the nation. The city and county of Honolulu, which has the highest number of individuals experiencing homelessness of any county in Hawaii, has seen the number of unsheltered individuals experiencing homelessness rise over the past five years and the number of people in shelters



1 decline during the same period despite increased investment in
2 shelters and enforcement.

3 Therefore, the legislature finds that addressing
4 homelessness requires the courage to try something new. Last
5 year, the legislature passed Act 212, Session Laws of Hawaii
6 2017, to create a working group to examine safe zones for people
7 experiencing homelessness as one possible solution to the
8 problem. Some stakeholders have expressed reservations about
9 safe zones and have advised that scarce resources should not be
10 diverted from the development of permanent housing.
11 Unfortunately, the development of permanent housing takes time,
12 and in the meantime, people experiencing homelessness will
13 continue to live unsheltered and without adequate and meaningful
14 access to social services.

15 In response to these concerns, some policymakers have
16 expressed support for ohana zones, which are designed to assist
17 individuals experiencing homelessness find and transition into
18 permanent housing. The legislature finds that ohana zones have
19 the potential to serve individuals experiencing homelessness in
20 a way that existing programs are currently unable. Ohana zones
21 will have the goal of improving the health and well-being of



1 individuals experiencing homelessness and providing access to
2 needed services. The use of the term ohana is not meant to
3 suggest that the use of an ohana zone is limited to nuclear
4 families or people related by blood, but rather that an ohana
5 zone provides a welcoming, safe haven where individuals
6 experiencing homelessness and those who serve them treat each
7 other as an extended family.

8 Because it is unclear what costs and benefits will accrue
9 using the new model of an ohana zone, the legislature finds that
10 these costs and benefits should be carefully studied, and that
11 ohana zones should, at least initially, be temporary.

12 The purpose of this part is to establish a pilot program
13 for the establishment of ohana zones, with the goal of improving
14 the health and well-being of individuals experiencing
15 homelessness and providing individuals experiencing homelessness
16 with needed services.

17 SECTION 2. **Definitions.** For purposes of this part:

18 "Homeless" has the same meaning as defined in section
19 346-361, Hawaii Revised Statutes.

20 "Ohana zone" means a place:



1 (1) That has a program to address basic needs of

2 individuals experiencing homelessness; and

3 (2) Where wrap-around services, social and health care

4 services, transportation, and other services may be

5 offered with the goals of alleviating poverty and

6 transitioning individuals experiencing homelessness

7 into affordable housing.

8 SECTION 3. (a) There is established the ohana zones pilot
9 program to provide temporary housing and services to homeless
10 individuals and families based on principles similar to the
11 housing first program.

12 (b) The governor shall designate executive branch agencies
13 to develop and implement the ohana zones pilot program,
14 including an agency with specific expertise in construction
15 development and an agency with specific expertise in
16 administering homeless services. The governor, through the
17 governor's designated agencies, shall determine the number and
18 locations of the ohana zones, which shall be situated on public
19 lands; provided that the designated agencies shall identify at
20 least three sites on Oahu and one site on each of the islands of
21 Hawaii, Kauai, and Maui.



1 (c) The agencies designated pursuant to subsection (b) may
2 coordinate with public or private entities, as appropriate, to
3 develop and implement the ohana zones pilot program; provided
4 that if any public land under the jurisdiction of a state or
5 county agency is determined to be suitable for use as an ohana
6 zone, the designated agencies shall:

7 (1) Work with the appropriate state or county agency that
8 controls the land to transfer the land designated for
9 use as an ohana zone to an agency whose mission is
10 more suited to the management of ohana zones; and

11 (2) Work with the appropriate state or county agency that
12 controls the land and its construction agency to
13 ensure that an ohana zone's infrastructure needs are
14 met and minimize adverse impacts to the environment,
15 including to nearshore resources such as corals, reef
16 fish, and seabirds.

17 (d) The ohana zones pilot program may provide the
18 following facilities and services at each ohana zone site:

19 (1) Secure dwelling spaces that:

20 (A) May be private or communal;



1 (B) Have access to toilets, showers, and other
2 hygiene facilities; and

3 (C) Have access to an area for food storage and meal
4 preparation;

5 (2) Medical and social support services; and

6 (3) Transportation to appointments related to medical care
7 or supportive services that are not available onsite.

8 SECTION 4. (a) Contracts entered into by the agencies
9 designated by the governor pursuant to the ohana zones pilot
10 program shall be exempt from the requirements of chapters 103D
11 and 103F, Hawaii Revised Statutes.

12 (b) The agencies designated by the governor shall
13 establish no later than December 31, 2018, the following:

14 (1) The criteria that the agencies will use to evaluate
15 potential ohana zone locations;

16 (2) A monthly timetable of milestones that the agencies
17 expect to meet in establishing one or more ohana zones
18 over the course of the three-year pilot program;

19 (3) The specific, measurable, attainable, reasonable, and
20 time-based performance measures that the agencies
21 expect to meet at the end of each fiscal year;



(4) The evaluation criteria and process that the agencies intend to use each year when reviewing the success and sustainability of the ohana zones; and

(5) The monitoring and oversight controls that the agencies will have over the ohana zones to identify, address, and prevent possible fraud, waste, and abuse and ensure compliance with local, state, and federal laws.

(c) The governor's coordinator on homelessness shall compile and consolidate information from the agencies designated by the governor to effectuate this part and submit reports to the legislature no later than twenty days prior to the convening of the regular sessions of 2019, 2020, and 2021.

(d) The report submitted no later than twenty days prior to the convening of the regular session of 2019 shall include the following information:

(1) A summary and explanation of the process that the agencies designated by the governor pursuant to the ohana zones pilot program engaged in to identify possible ohana zone locations; and



1 (2) A summary of the information required under subsection
2 (b).

3 (e) The reports submitted no later than twenty days prior
4 to the convening of the regular sessions of 2020 and 2021 shall
5 include the following information:

6 (1) The milestones established pursuant to subsection (b)
7 that were met by the agencies designated by the
8 governor pursuant to the ohana zones pilot program and
9 ohana zones established during the fiscal year;

10 (2) An evaluation of the ohana zones to determine whether
11 the objectives set have been met or exceeded;

12 (3) Any proposed changes that need to be made to the
13 performance measures used to assess the achievement of
14 program goals; and

15 (4) An assessment of the impact of the ohana zone model on
16 the homelessness problem in Hawaii.

17 (f) The pilot program shall cease to exist on June 30,
18 2021.

19 SECTION 5. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$30,000,000 or so
21 much thereof as may be necessary for fiscal year 2018-2019 for



1 the establishment of the ohana zones pilot program and expenses
2 related to facility construction, provision of services,
3 staffing, and administrative costs.

4 The sum appropriated shall be expended by the office of the
5 governor for the purposes of this part; provided that the
6 governor shall transfer the expenditure authority to designated
7 executive branch departments or agencies within a reasonable
8 time.

9 Notwithstanding any other law to the contrary, the governor
10 may transfer all or a portion of the appropriation in this
11 section to the governor's designated executive branch agencies
12 for expenditures incurred to implement the program.

13 The governor's designated executive branch agencies may
14 expend any appropriation transferred pursuant to this section
15 for the performance of its duties under the pilot program.

16 PART II

17 SECTION 6. The legislature finds that there is excessive
18 utilization of hospital emergency department resources by
19 homeless individuals for non-emergency needs. Many of these
20 users are considered super utilizers if they visit the emergency
21 department at least three times per week, are admitted to the



1 hospital at least three times per month, or visit the emergency
2 department at least twelve times per quarter, and suffer from
3 mental health and substance abuse issues. According to 2015
4 data from the Hawaii Health Information Corporation, the billed
5 charges for all homeless health care encounters that occurred in
6 Hawaii hospitals was \$146,000,000. These encounters included
7 repeat visits of, on average, two to three times.

8 The purpose of this part is to:

- 9 (1) Establish and appropriate moneys for the emergency
10 department homelessness assessment pilot program to
11 identify individuals experiencing homelessness with
12 the goal of providing case management to those who
13 require supportive services and to demonstrate
14 effectiveness in mitigating the increasing cost of
15 medical care and unnecessary use of the hospital
16 emergency department visits; and
- 17 (2) Establish and appropriate moneys for the medical
18 respite pilot program to offer medical, nursing,
19 psychiatric, and other care for homeless individuals
20 after being discharged from a hospital.



1 SECTION 7. (a) There is established within the department
2 of human services a pilot program to be known as the emergency
3 department homelessness assessment pilot program. The
4 department of human services, in consultation with the Hawaii
5 interagency council on homelessness and any other appropriate
6 agency, shall serve as the administrator of the pilot program.

7 (b) The pilot program shall consist of multidisciplinary
8 teams composed of but not limited to physicians, advanced
9 practice registered nurses, social workers, and patient
10 navigators who are employed by a participating hospital in the
11 participating hospital's emergency department. The
12 multidisciplinary team shall:

13 (1) Identify patients who are experiencing homelessness or
14 patients at risk of experiencing homelessness and have
15 high utilization of emergency department services;

16 (2) Assess the patient's current circumstances; and

17 (3) Coordinate and refer these patients to appropriate and
18 available wrap-around supports and community resources
19 along the entire continuum of care with a goal of
20 reducing costs associated with chronic use of hospital
21 emergency departments.



1 (c) The department of human services shall work with the
2 participating hospital under the emergency department
3 homelessness assessment pilot program to collect and analyze
4 data to be included in a report that contains a summary and
5 explanation of the data regarding the efficacy of emergency
6 department intervention by the multidisciplinary team in
7 mitigating the number of unnecessary emergency department visits
8 by patients experiencing homelessness or patients at risk of
9 experiencing homelessness. The report shall contain findings
10 and recommendations, including any proposed legislation, for
11 continuation, modification, or termination of the pilot program.
12 The department of human services shall submit the report to the
13 legislature no later than twenty days prior to the convening of
14 the regular session of 2019.

15 (d) The department of human services shall be exempt from
16 chapter 103F, Hawaii Revised Statutes, in implementing this
17 part.

18 (e) The emergency department homelessness assessment pilot
19 program shall cease to exist on June 30, 2019.

20 SECTION 8. There is appropriated out of the general
21 revenues of the State of Hawaii the sum of \$1,000,000 or so much



1 thereof as may be necessary for fiscal year 2018-2019 for the
2 department of human services to establish the emergency
3 department homelessness assessment pilot program; provided that:

4 (1) The department of human services shall reimburse the
5 participating hospital for expenses directly related
6 to the emergency department homelessness assessment
7 pilot program;

8 (2) No funds shall be disbursed to a participating
9 hospital unless matched on a dollar-for-dollar basis
10 by the participating hospital; and

11 (3) All funds designated as matching funds by the
12 participating hospital shall be funds expended by the
13 participating hospital for the pilot program.

14 The sum appropriated shall be expended by the department of
15 human services for the purposes of this part.

16 SECTION 9. (a) There is established within the department
17 of human services a pilot program to be known as the medical
18 respite pilot program. The department of human services, in
19 consultation with the Hawaii interagency council on homelessness
20 and any appropriate agency, shall serve as the administrator of
21 the pilot program.



1 (b) A participating community human services provider, in
2 partnership with a hospital participating in the pilot program,
3 shall provide emergency housing for eligible individuals
4 experiencing homelessness who are discharged from the
5 participating hospital and provide, at minimum, meals, case
6 management, and medical, nursing, and psychiatric care. The
7 medical respite facilities shall comply with the department of
8 health's standards of accessibility, sanitation, and other
9 requirements, as determined by the department of health for
10 facilities of similar use.

11 (c) The department of human services shall submit a report
12 to the legislature of its findings and recommendations,
13 including any proposed legislation, regarding the pilot program
14 no later than twenty days prior to the convening of the regular
15 session of 2019.

16 (d) The department of human services shall be exempt from
17 chapter 103F, Hawaii Revised Statutes, in implementing this
18 part.

19 (e) The medical respite pilot program shall cease to exist
20 on June 30, 2019.



1 SECTION 10. There is appropriated out of the general
2 revenues of the State of Hawaii the sum of \$1,000,000 or so much
3 thereof as may be necessary for fiscal year 2018-2019 for the
4 department of human services to establish the medical respite
5 pilot program; provided that:

6 (1) The department of human services shall reimburse a
7 participating hospital for expenses directly related
8 to the medical respite pilot program;

9 (2) No funds shall be disbursed to a participating
10 hospital unless matched on a dollar-for-dollar basis
11 by the participating hospital; and

12 (3) All funds designated as matching funds by the
13 participating hospital shall be funds expended by the
14 participating hospital for the pilot program.

15 The sum appropriated shall be expended by the department of
16 human services for the purposes of this part.

17 PART III

18 SECTION 11. There is appropriated out of the general
19 revenues of the State of Hawaii the sum of \$800,000 or so much
20 thereof as may be necessary for fiscal year 2018-2019 for the
21 department of human services to establish and administer a new



1 family assessment center for homeless families that is in
2 addition to any family assessment center for homeless families
3 currently in existence.

4 The sum appropriated shall be expended by the department of
5 human services for the purposes of this part.

6 PART IV

7 SECTION 12. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$400,000 or so much
9 thereof as may be necessary for fiscal year 2018-2019 for the
10 department of health to continue administering the law
11 enforcement assisted diversion pilot program; provided that the
12 department of health shall establish one site located on the
13 island of Maui for which the department shall receive \$200,000
14 of the sum appropriated in this section, and one site located on
15 the island of Hawaii for which the department shall receive
16 \$200,000 of the sum appropriated in this section.

17 The sum appropriated shall be expended by the department of
18 health for the purposes of this part.

19 PART V

20 SECTION 13. This Act shall take effect on July 1, 2018.



Report Title:

Homelessness; Housing; Ohana Zones Pilot Program; Emergency Department Homelessness Assessment Pilot Program; Medical Respite Pilot Program; Law Enforcement Assisted Diversion; Appropriations

Description:

Establishes the Ohana Zones Pilot Program, the Emergency Department Homelessness Assessment Pilot Program, and the Medical Respite Pilot Program. Makes appropriations. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

APR 27 2018

RE: S.B. No. 2401
S.D. 2
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2401, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HOMELESSNESS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to facilitate assistance to individuals who are homeless or at risk of becoming homeless.

More specifically, the measure:

- (1) Establishes and appropriate funds for a three-year housing homeless children pilot program to provide housing assistance to families with minors that, due to domestic violence, are homeless or at imminent risk of becoming homeless; and



- (2) Appropriates funds to the Hawaii Public Housing Authority, Department of Human Services, and Department of Health to support various state programs to address homelessness.

Your Committee on Conference finds that homelessness is one of the most pressing problems in the State and requires robust, comprehensive solutions to increase the pace at which the State is gaining ground on addressing the issue.

Your Committee on Conference has amended this measure by deleting its contents and:

- (1) Establishing and appropriating moneys for an Ohana Zones Pilot Program, to be developed and implemented by agencies appointed by the Governor, to provide temporary housing and services to homeless individuals and families based on principles similar to the Housing First program;
- (2) Establishing and appropriating moneys for an Emergency Department Homelessness Assessment Pilot Program within the Department of Human Services to assist individuals who are experiencing homelessness or patients who are at risk of experiencing homelessness and have high utilization of emergency department services;
- (3) Establishing and appropriating moneys for a Medical Respite Pilot Program within the Department of Human Services to provide emergency housing, in partnership with a participating community human services provider, for eligible individuals experiencing homelessness who are discharged from a hospital;
- (4) Appropriating moneys to the Department of Human Services for the establishment and administration of a new family assessment center for homeless families;
- (5) Appropriating moneys for the Department of Health to continue administering the Law Enforcement Assisted Diversion Pilot Program, and to establish additional sites of the pilot program on the islands of Maui and Hawaii;
- (6) Changing the effective date to July 1, 2018; and
- (7) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.



As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2401, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2401, S.D. 2, H.D. 1, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE



TOM BROWER
Co-Chair



JOHN M. MIZUNO
Co-Chair



SYLVIA LUKE
Co-Chair

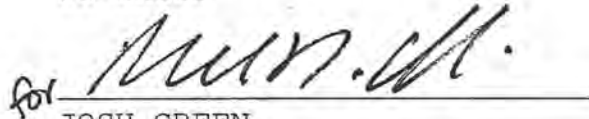
ON THE PART OF THE SENATE



WILL ESPERO
Chair



ROSALYN H. BAKER
Co-Chair



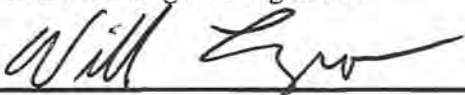
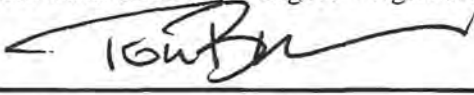
JOSH GREEN
Co-Chair



J. KALANI ENGLISH
Co-Chair



Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 2401, SD 2, HD 1					Date/Time: 4/28/18 2:25 pm				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
ESPERO, Will, Chr.	✓				BROWER, Tom, Co-Chr.	✓			
BAKER, Rosalyn H., Co-Chr.	✓				MIZUNO, John M., Co-Chr.	✓			
GREEN, Josh, Co-Chr.	✓				LUKE, Sylvia, Co-Chr.	✓			
ENGLISH, J. Kalani, Co-Chr.	✓				BELATTI, Della Au	✓			
					GATES, Cedric Asuega	✓			
					NAKAMURA, Nadine K.	✓			
					YAMASHITA, Kyle T.	✓			
					MCDERMOTT, Bob	✓			
TOTAL	4				TOTAL	4			
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution: Original					Yellow Pink Goldenrod				
File with Conference Committee Report					House Clerk's Office Senate Clerk's Office Drafting Agency				

SB2401 SD2 HD1 CD1

Measure Title: RELATING TO HOMELESSNESS.

Report Title: Homelessness; Housing; Ohana Zones Pilot Program; Emergency Department Homelessness Assessment Pilot Program; Medical Respite Pilot Program; Law Enforcement Assisted Diversion; Appropriations (\$)

Description: Establishes the Ohana Zones Pilot Program, the Emergency Department Homelessness Assessment Pilot Program, and the Medical Respite Pilot Program. Makes appropriations. (CD1)

Companion:

Package: None

Current Referral: HSG/HHS, FIN

Introducer(s): ESPERO, GREEN, HARIMOTO

<u>Sort by</u> <u>Date</u>	<u>Status</u>	<u>Text</u>
1/19/2018	S	Introduced.
1/22/2018	S	Passed First Reading.
1/22/2018	S	Referred to HOU/CPH/HMS, WAM.
1/26/2018	S	The committee(s) on HOU/CPH/HMS has scheduled a public hearing on 02-01-18 2:45PM in conference room 225.
2/1/2018	S	The committee(s) on HOU recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HOU were as follows: 3 Aye(s): Senator(s) Espero, Harimoto, Green; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) K. Kahele, Nishihara.
2/1/2018	S	The committee(s) on CPH recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in CPH were as follows: 5 Aye(s): Senator(s) Baker, S. Chang, Espero, Ihara, Ruderman; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Tokuda, Nishihara.
2/1/2018	S	The committee(s) on HMS recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in HMS were as follows: 4 Aye(s): Senator(s) Green, S. Chang, Harimoto, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Tokuda.
2/9/2018	S	Reported from HOU/CPH/HMS (Stand. Com. Rep. No. 2126) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/9/2018	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/21/2018	S	The committee(s) on WAM will hold a public decision making on 02-28-18 11:00AM in conference room 211.
2/28/2018	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 11 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Galuteria, Harimoto, Inouye, K. Kahele, Kidani, Riviere, Shimabukuro, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
3/2/2018	S	Reported from WAM (Stand. Com. Rep. No. 2853) with recommendation of passage on Third Reading, as amended (SD 2).
3/2/2018	S	48 Hrs. Notice 03-06-18.
3/6/2018	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/6/2018	H	Received from Senate (Sen. Com. No. 174) in amended form (SD 2).
3/8/2018	H	Pass First Reading
3/8/2018	H	Referred to HSG/HHS, FIN, referral sheet 35
3/14/2018	H	Bill scheduled to be heard by HSG/HHS on Friday, 03-16-18 9:30AM in House conference room 329.
3/16/2018	H	The committee(s) on HSG/HHS recommend(s) that the measure be deferred until 03-20-18.
3/16/2018	H	Bill scheduled for decision making on Tuesday, 03-20-18 11:00AM in conference room 423.
3/20/2018	H	The committees on HSG recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Brower, Nakamura, Hashem, San Buenaventura, McDermott; Ayes with reservations: none; Noes: none; and 2 Excused:

EXHIBIT "S"

Representative(s) Aquino, Quinlan.	
3/20/2018	H The committees on HHS recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Mizuno, Kobayashi, Belatti, Learmont, Tupola; Ayes with reservations: none; Noes: none; and Excused: none.
3/22/2018	H Reported from HSG/HHS (Stand. Com. Rep. No. 1304-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
3/22/2018	H Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and Representative(s) Fukumoto, Johanson, C. Lee, Souki, Todd excused (5).
4/2/2018	H Bill scheduled to be heard by FIN on Wednesday, 04-04-18 2:30PM in House conference room 308.
4/4/2018	H The committees on FIN recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 9 Ayes: Representative(s) Luke, Cullen, DeCoite, Keohokalole, Kobayashi, Lowen, Nakamura, Yamashita, Ward; Ayes with reservations: none; Noes: none; and 6 Excused: Representative(s) Cachola, Fukumoto, Gates, Holt, Todd, Tupola.
4/6/2018	H Reported from FIN (Stand. Com. Rep. No. 1984-18), recommending passage on Third Reading.
4/10/2018	H Passed Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Holt excused (1). Transmitted to Senate.
4/10/2018	S Received from House (Hse. Com. No. 573).
4/12/2018	S Senate disagrees with House amendments.
4/12/2018	H Received notice of disagreement (Sen. Com. No. 784).
4/16/2018	H House Conferees Appointed: Brower, Mizuno, Luke Co-Chairs; Belatti, Gates, Nakamura, McDermott.
4/16/2018	S Received notice of appointment of House conferees (Hse. Com. No. 610).
4/16/2018	H House Conferees Added: Representative Yamashita added as Conferee.
4/17/2018	S Senate Conferees Appointed: Espero Chair; Baker, Green, English Co-Chairs.
4/17/2018	S Received notice of change in conferees (Hse. Com. No. 616).
4/17/2018	H Received notice of Senate conferees (Sen. Com. No. 788).
4/23/2018	S Conference committee meeting scheduled for 04-24-18 2:30PM in conference room 325.
4/24/2018	S Conference committee meeting to reconvene on 04-25-18 2:15PM in conference room 325.
4/25/2018	S Conference committee meeting to reconvene on 04-26-18 2:15PM in conference room 325.
4/26/2018	S Conference committee meeting to reconvene on 04-27-18 2:00PM in conference room 325.
4/27/2018	S The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 4 Aye(s): Senator(s) Espero, Baker, Green, English; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/27/2018	H The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 8 Ayes: Representative(s) Brower, Mizuno, Luke, Belatti, Gates, Nakamura, Yamashita, McDermott; Ayes with reservations: none; 0 Noes: none; and 0 Excused: none.
4/27/2018	S Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 177-18).
4/27/2018	S 48 Hrs. Notice (as amended CD 1) 05-01-18.
4/27/2018	H Reported from Conference Committee (Conf Com. Rep. No. 177-18) as amended in (CD 1).
4/27/2018	H Forty-eight (48) hours notice Tuesday 05-01-18.
5/1/2018	S Passed Final Reading, as amended (CD 1). Ayes, 25; Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
5/1/2018	H Passed Final Reading as amended in CD 1 with Representative(s) Say voting aye with reservations; none voting no (0) and Representative(s) Takumi excused (1).
5/1/2018	H Received notice of Final Reading (Sen. Com. No. 849).
5/3/2018	S Received notice of passage on Final Reading in House (Hse. Com. No. 705).
5/3/2018	S Enrolled to Governor.
7/11/2018	H Act 209, on 07/10/2018 (Gov. Msg. No. 1318).
7/11/2018	S Act 209, 07/10/2018 (Gov. Msg. No. 1318).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional

Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB2401 SD2 HD1 CD1

A BILL FOR AN ACT

RELATING TO PUBLIC EMPLOYMENT COST ITEMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. There are appropriated or authorized from the sources of funding indicated below to collective bargaining statewide (BUF 102) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2017-2019 all collective bargaining cost items in the agreement negotiated with the exclusive bargaining representative of collective bargaining unit (14):

	<u>FY 2017-2018</u>	<u>FY 2018-2019</u>
General Funds	\$952,743	\$2,062,636
Special Funds	\$73,756	\$152,404
Interdepartmental Transfers	\$150,963	\$325,230

SECTION 2. Funds appropriated or authorized by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART II



SECTION 3. There is appropriated from the source of funding indicated below to collective bargaining statewide (BUF 102) the following sums or so much thereof as may be necessary to fund for fiscal biennium 2017-2019 the salary increases and other cost adjustments authorized by chapter 89C, Hawaii Revised Statutes, for state officers and employees in the executive branch who are excluded from collective bargaining and belong to the same compensation plans as those officers and employees within collective bargaining unit (14):

	<u>FY 2017-2018</u>	<u>FY 2018-2019</u>
General Funds	\$21,321	\$46,582

SECTION 4. Funds appropriated by this part shall be allotted by the director of finance to the appropriate state departments for expenditure in the respective fiscal year for the purposes of this part.

PART III

SECTION 5. Salary increases and cost adjustments provided in this Act for any officer or employee whose compensation is paid, in whole or in part, from federal, special, or other funds shall be paid wholly or proportionately, as the case may be, from the respective funds.



1 SECTION 6. Funds appropriated or authorized by this Act
2 that are not expended or encumbered by June 30, 2019, shall
3 lapse as of that date.

4 SECTION 7. This Act shall take effect upon its approval.



Report Title:

Collective Bargaining; Cost Items; Benefits; Collective Bargaining Unit (14); Appropriations

Description:

Appropriates funds for Fiscal Biennium 2017-2019 for collective bargaining cost items, salary increases, and other cost adjustments for public employees in Collective Bargaining Unit (14) and for their excluded counterparts. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

APR 26 2018

RE: S.B. No. 2361
S.D. 2
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2361, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC EMPLOYMENT COST ITEMS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to appropriate funds for fiscal biennium 2017-2019 for collective bargaining cost items, salary increases, and other cost adjustments for public employees in collective bargaining unit (14) and for their excluded counterparts.

Your Committee on Conference finds that on April 5, 2018, the State received notification of an arbitration award concerning the Hawaii Government Employees Association, collective bargaining unit (14). An agreement with the Hawaii Government Employees Association regarding Employer-Union Trust Fund contributions was previously reached and funded by Act 28, Session Laws of Hawaii 2017.



Accordingly, your Committee on Conference has amended this measure by:

- (1) Inserting specific amounts for collective bargaining cost items, salary increases, and other cost adjustments for public employees in collective bargaining unit (14) and for their excluded counterparts for fiscal biennium 2017-2019, pursuant to the arbitration award;
- (2) Changing the effective date to upon approval; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2361, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1.

Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

ON THE PART OF THE SENATE



AARON LING JOHANSON
Co-Chair



JILL N. TOKUDA
Chair



SYLVIA LUKE
Co-Chair



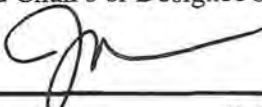
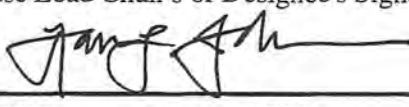
GILBERT S.C. KEITH-AGARAN
Co-Chair



Hawai'i State Legislature

CUR 7-18

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 2361, SD 2, HD 1					Date/Time: April 23, 2018 @ 9:38 am					
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).										
<input type="checkbox"/> The Committee is reconsidering its previous decision.										
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.					
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E	
TOKUDA, Jill N., Chr.	✓				JOHANSON, Aaron Ling, Co-Chr.	✓				
KEITH-AGARAN, Gilbert S.C., Co-Chr.	✓				LUKE, Sylvia, Co-Chr.	✓				
CHANG, Stanley				✓	CULLEN, Ty J.K.	✓				
					HOLT, Daniel	✓				
					MATSUMOTO, Lauren Kealohilani				✓	
TOTAL	2			1	TOTAL	4			1	
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused			
Senate Recommendation is:					House Recommendation is:					
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:					
										
Distribution:		Original			Yellow		Pink		Goldenrod	
		File with Conference Committee Report			House Clerk's Office		Senate Clerk's Office		Drafting Agency	

SB2361 SD2 HD1 CD1

Measure Title: RELATING TO PUBLIC EMPLOYMENT COST ITEMS.
 Report Title: Collective Bargaining; Cost Items; Benefits; Collective Bargaining Unit (14); Appropriations (\$)
 Description: Appropriates funds for Fiscal Biennium 2017-2019 for collective bargaining cost items, salary increases, and other cost adjustments for public employees in Collective Bargaining Unit (14) and for their excluded counterparts. (CD1)
 Companion: [HB1726](#)
 Package: None
 Current Referral: LAB, FIN
 Introducer(s): TOKUDA

<u>Sort by</u> <u>Date</u>	<u>Status</u>	<u>Text</u>
1/19/2018	S	Introduced.
1/22/2018	S	Passed First Reading.
1/22/2018	S	Referred to LBR, WAM.
2/9/2018	S	The committee(s) on LBR has scheduled a public hearing on 02-13-18 3:00PM in conference room 229.
2/13/2018	S	The committee(s) on LBR recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in LBR were as follows: 5 Aye(s): Senator(s) Tokuda, English, S. Chang, Ihara, Taniguchi; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/16/2018	S	Reported from LBR (Stand. Com. Rep. No. 2416) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/16/2018	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/21/2018	S	The committee(s) on WAM will hold a public decision making on 02-28-18 11:00AM in conference room 211.
2/28/2018	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 11 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Galuteria, Harimoto, Inouye, K. Kahele, Kidani, Riviere, Shimabukuro, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
3/2/2018	S	Reported from WAM (Stand. Com. Rep. No. 2929) with recommendation of passage on Third Reading, as amended (SD 2).
3/2/2018	S	48 Hrs. Notice 03-06-18.
3/6/2018	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/6/2018	H	Received from Senate (Sen. Com. No. 157) in amended form (SD 2).
3/8/2018	H	Pass First Reading
3/8/2018	H	Referred to LAB, FIN, referral sheet 35
3/12/2018	H	Bill scheduled to be heard by LAB on Thursday, 03-15-18 9:00AM in House conference room 309.
3/15/2018	H	The committees on LAB recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 7 Ayes: Representative(s) Johanson, Holt, Evans, Ichiyama, Keohokalole, Yamashita, Matsumoto; Ayes with reservations: none; Noes: none; and Excused: none.
3/22/2018	H	Reported from LAB (Stand. Com. Rep. No. 1282-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
3/22/2018	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and Representative(s) Fukumoto, Johanson, C. Lee, Souki, Todd excused (5).
3/24/2018	H	Bill scheduled to be heard by FIN on Wednesday, 03-28-18 4:00PM in House conference room 308.
3/28/2018	H	The committees on FIN recommend that the measure be PASSED, UNAMENDED. The votes were as follows: 12 Ayes: Representative(s) Luke, Cullen, Cachola, Gates, Holt, Keohokalole, Kobayashi, Lowen, Nakamura, Todd, Yamashita, Ward; Ayes with

EXHIBIT "V"

		reservations: none; 0 Noes: none; and 3 Excused: Representative(s) DeCoite, Fukumoto, Tupola.
4/5/2018	H	Reported from FIN (Stand. Com. Rep. No. 1864-18), recommending passage on Third Reading.
4/5/2018	H	Passed Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Choy, Holt, C. Lee, LoPresti, Nakashima, Quinlan excused (6). Transmitted to Senate.
4/6/2018	S	Received from House (Hse. Com. No. 455).
4/6/2018	S	Senate disagrees with House amendments.
4/6/2018	H	Received notice of disagreement (Sen. Com. No. 574).
4/16/2018	H	House Conferees Appointed: Johanson, Luke Co-Chairs; Cullen, Holt, Matsumoto.
4/16/2018	S	Received notice of appointment of House conferees (Hse. Com. No. 610).
4/17/2018	S	Senate Conferees Appointed: Tokuda Chair; Keith-Agaran Co-Chair; S. Chang.
4/17/2018	H	Received notice of Senate conferees (Sen. Com. No. 788).
4/20/2018	H	Received from Governor re: Arbitration Award (Gov. Msg. No. 13).
4/20/2018	H	Bill scheduled for Conference Committee Meeting on Monday, 04-23-18 9:30AM in conference room 329.
4/23/2018	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 2 Aye(s): Senator(s) Tokuda, Keith-Agaran; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) S. Chang.
4/23/2018	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 4 Ayes: Representative(s) Johanson, Luke, Cullen, Holt; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Matsumoto.
4/26/2018	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 7-18).
4/26/2018	S	48 Hrs. Notice (as amended CD 1) 05-01-18.
4/26/2018	H	Reported from Conference Committee (Conf Com. Rep. No. 7-18) as amended in (CD 1).
4/26/2018	H	Forty-eight (48) hours notice Tuesday 05-01-18.
5/1/2018	S	Passed Final Reading, as amended (CD 1). Ayes, 25; Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
5/1/2018	H	Passed Final Reading as amended in CD 1 with none voting aye with reservations; Representative(s) Choy voting no (1) and none excused (0).
5/1/2018	H	Received notice of Final Reading (Sen. Com. No. 849).
5/3/2018	S	Received notice of passage on Final Reading in House (Hse. Com. No. 705).
5/3/2018	S	Enrolled to Governor.
6/6/2018	H	Act 020, on 06/04/2018 (Gov. Msg. No. 1120).
6/6/2018	S	Act 020, 06/04/2018 (Gov. Msg. No. 1120).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader, Please visit [Adobe's download page](#) for detailed instructions.

SB2361 SD2 HD1 CD1

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

NOTICE OF HEARING

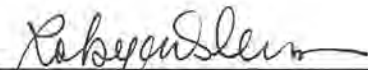
NOTICE OF HEARING

TO: ROBERT BRIAN BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813

Attorney for Plaintiffs

NOTICE IS HEREBY GIVEN that the State Of Hawai'i's Motion for Summary Judgment shall come on for hearing on Tuesday, 11/13/2018, at 3:00 pm before the Honorable Gary W. B. Chang, Judge of the above-entitled court, in his courtroom at 777 Punchbowl Street, Honolulu, Hawai'i 96813 or as soon thereafter as counsel can be heard.

DATED: Honolulu, Hawai'i, October 8, 2018.



MAURICE S. KATO
PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

CERTIFICATE OF SERVICE

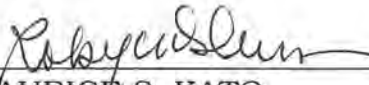
CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the
forgoing document was duly served by U.S. Mail, postage prepaid, to the
following party listed below:

ROBERT BRIAN BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813

Attorney for Plaintiffs

DATED: Honolulu, Hawai'i, October 8, 2018.



MAURICE S. KATO
PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAI'I

ROBERT BRIAN BLACK 7659
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
brian@civilbeatlawcenter.org
Telephone: (808) 531-4000

*Attorney for League of Women Voters of Honolulu
and Common Cause*

PKN
1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2018 OCT 25 AM 10:56

[Signature]

F. OTAKE
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC ¹²
(Other Civil Action)

PLAINTIFFS' CROSS-MOTION FOR
SUMMARY JUDGMENT; COMBINED
MEMORANDUM OF LAW IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT AND IN
OPPOSITION TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT; DECLARATION OF
R. BRIAN BLACK; EXHIBITS 1-23;
NOTICE OF HEARING; and
CERTIFICATE OF SERVICE

HEARING MOTION

JUDGE: Honorable Gary W. B. Chang

TRIAL DATE: NONE

HEARING DATE: December 5, 2018

HEARING TIME: 3:00 pm

PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT

Plaintiffs League of Women Voters of Honolulu and Common Cause move this Court to grant summary judgment pursuant to Rules 7, 56, and 57 of the Hawai'i Rules of Civil Procedure. The motion is supported by the legal authorities, arguments, and facts provided in the accompanying memorandum, declaration, and exhibits; and the files and records herein.

FIRST JUDICIAL CIRCUIT
STATE OF HAWAII
14TH DIVISION

2010 OCT 25 AM 10:12

14th Division

NOTICE TO ALL PARTIES RE:

(1) DUTY TO IDENTIFY RELEVANT RECORD
AND (2) HRCP 56(e) AUTHENTICATING EXHIBITS

This notice applies to evidentiary proceedings.

(1) All parties have a duty to specifically cite to the page and line numbers of an exhibit or declaration that show a genuine issue of material fact exists or does not exist. Failure to discharge this duty may result in the court disregarding your argument. [Munoz v. Yuen, 66 Haw. 603, 605, 670 P.2d 825, 826 (1983).]

(2) The court will not consider any exhibit unless the exhibit is admissible in evidence. This requires each exhibit to be authenticated by a competent witness. [G.E. Capital Hawaii, Inc. v. Yonenaka, 96 Hawai'i 32, 40, 25 P.3d 807, 815 (App. 2001).]

Attorneys are not competent to authenticate an exhibit unless counsel participated in the creation of the document. [Nakato v. Macharg, 89 Hawai'i 79, 88-90, 969 P.2d 824, 833-35 (App. 1998).]

Rev. 5/23/2015

Defendant State of Hawai'i violated article III, sections 14 and 15 of the Hawai'i Constitution when enacting Act 84 (2018). The bill that became Act 84—S.B. 2858—was introduced in the Legislature as a bill to improve reporting by the Department of Public Safety. The title of the bill "relating to public safety" was too broad and amorphous to fairly apprise a reasonable person regarding the subject matter of the bill, in violation of article III, section 14 of the Hawai'i Constitution. And late in the legislative process, the House struck the original subject of the bill and replaced its entire contents with a bill about hurricane shelters. The new content was not germane to the original bill about departmental reporting. In violation of article III, section 15 of the Hawai'i Constitution, the Legislature did not restart the three readings process after the non-germane amendments, and the hurricane shelter bill had only one reading in the Senate before enactment as Act 84.

Plaintiffs respectfully request that this Court grant summary judgment and declare that the process for enacting Act 84 violated article III, sections 14 and 15 of the Hawai'i Constitution and that Act 84 thus is void.

DATED: Honolulu, Hawai'i, October 25, 2018



ROBERT BRIAN BLACK
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
Tel. (808) 531-4000
brian@civilbeatlawcenter.org
*Attorney for League of Women Voters of Honolulu
and Common Cause*

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LEAGUE OF WOMEN VOTERS
OF HONOLULU and COMMON
CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC
(Other Civil Action)

COMBINED MEMORANDUM OF
LAW IN SUPPORT OF PLAINTIFFS'
CROSS-MOTION FOR SUMMARY
JUDGMENT AND IN OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT

**COMBINED MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS'
CROSS-MOTION FOR SUMMARY JUDGMENT AND IN OPPOSITION TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

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Haw. Const. art. XVII, § 3	6

The Hawai'i Constitution sets the minimum process required for legislative enactments. That minimal process ensures that the public **and** legislators have a meaningful opportunity to understand proposed changes to existing law before a bill's passage. A bill's title must appropriately reflect the subject of the legislation, and that bill must pass three readings in each house of the Legislature.

Defendant State of Hawai'i (State) did not follow this minimal process when enacting Act 84 (2018). The State used an inappropriately vague bill title as an excuse for gutting Senate Bill 2858 (S.B. 2858) and replacing its contents with an entirely unrelated subject. The newly reimagined version of S.B. 2858 never passed three readings in the Senate.

Over two thousand bills are introduced every year. The Hawai'i Constitution recognizes that it is unreasonable to expect members of the community to read thousands of pages of legislative content every year to determine which bills, if any, impact their interests. And it is all the more unreasonable to require the public to constantly monitor every bill because the purpose and effect of the proposed legislation could radically change any day before the Legislature adjourns.

Plaintiffs League of Women Voters of Honolulu (League) and Common Cause have struggled for years to explain to the State the fundamental danger of gut-and-replace tactics to democracy. Circumventing the constitutionally required process ignores the role of transparency and public participation when enacting legislation. Plaintiffs thus seek an order declaring that the process for enacting Act 84 violated the Hawai'i Constitution and that the Act therefore is void.

I. STATEMENT OF FACTS

A. The Community Reentry Reporting Bill: Three Readings in the Senate and One Reading in the House

On January 24, 2018, the Senate introduced S.B. 2858, entitled "A Bill for an Act Relating to Public Safety." Decl. of R. Brian Black, dated October 25, 2018 (Black Decl.), Ex. 1. As originally introduced, S.B. 2858 required the Department of Public Safety to

prepare an annual report with performance indicators regarding community reentry efforts to improve recidivism rates and inmate rehabilitation. *Id.*

On January 24, 2018, S.B. 2858 passed its first reading in the Senate. *Id.* Ex. 2 at 10. The community reentry reporting bill had its first hearing on February 6, 2018, before the Senate Committee on Public Safety, Intergovernmental, and Military Affairs (PSM). *Id.* Ex. 3. PSM recommended that the bill be passed with amendments to include information about pretrial detainees in the Department's annual report. *Id.* Ex. 4. On February 9, 2018, PSM reported its proposed amendments to the Senate, and S.B. 2858 passed its second reading in the Senate as amended (S.D. 1). *Id.* Ex. 5 at 11 & Ex. 6.

On February 23, 2018, S.B. 2858 moved to its next hearing before the Senate Committee on Ways and Means (WAM). *Id.* Ex. 3. WAM recommended that S.B. 2858 be passed with clarifying amendments about the Department's annual reports. *Id.* Ex. 7. On March 6, 2018, WAM reported to the Senate its proposed amendments, and the community reentry reporting bill passed its third reading in the Senate as amended (S.D. 2). *Id.* Ex. 8 at 43 & Ex. 9. On March 8, 2018, after crossover from the Senate, that bill passed its first reading in the House. *Id.* Ex. 10 at Add. c. & Ex. 11 at 12.

At that point, the community reentry reporting bill had passed three readings in the Senate with germane amendments made after two committee hearings and had passed one reading in the House. Numerous individuals and organizations had testified in support of the bill, including the ACLU, Hawai'i Justice Coalition, Young Progressives Demanding Action, the Community Alliance on Prisons, the Democratic Party's O'ahu County Committee on Legislative Priorities, the Office of Hawaiian Affairs, and the Department of Public Safety. *Id.* Ex. 12

B. The Hurricane Shelter Bill: Three Readings in the House and One Reading in the Senate

On March 15, 2018, the House Committee on Public Safety (PBS) held a hearing on S.B. 2858. *Id.* Ex. 3. Testifiers provided PBS comments regarding the community reentry reporting bill. *Id.* Ex. 13. PBS, however, recommended deleting S.B. 2858's content and replacing it with provisions that would require the design of all new State buildings to include hurricane shelter space. Instead of a report on inmate recidivism

and rehabilitation, the draft bill recommended by PBS, SB 2858 H.D. 1, became about requiring the design of all new State buildings to include hurricane shelter space. *Id.* Ex. 14.

On March 21, 2018, PBS reported its recommendation to the House. *Id.* Ex. 15 at 4. The House amended S.B. 2858 according to the PBS recommendation, and the hurricane shelter bill had its first reading in the House (H.D.1). *Id.* & Ex. 16. Only the title “Relating to Public Safety” remained the same. *Compare id.* Ex. 9, *with* Ex. 16.

On March 28, 2018, the House Committee on Finance (FIN) held a hearing on the hurricane shelter bill. *Id.* Ex. 3. This was the first and only chance for the public to testify concerning the hurricane shelter version of S.B. 2858. *Id.* Ex. 17. The Office of Hawaiian Affairs and Young Progressives Demanding Action offered testimony asking legislators to revert the bill to its original subject about community reentry reports. *Id.* FIN recommended passing the hurricane shelter bill unamended. *Id.* Ex. 18. On April 6, 2018, FIN reported its recommendation to the House, and the hurricane shelter bill passed its second reading in the House. *Id.* Ex. 19 at 7.

On April 26, 2018, the appointed conference committee recommended amendments to the hurricane shelter bill version to only require that the State consider hurricane resistance criteria when designing new schools. *Id.* Ex. 20. On May 1, 2018, the House adopted the recommendation of the conference committee, and the hurricane shelter bill passed its third reading in the House. *Id.* Ex. 21 at 10. The same day, the Senate adopted the recommendations of the conference committee, and the hurricane shelter bill passed its first reading in the Senate. *Id.* Ex. 22 at 23. S.B. 2858 became law, on June 29, 2018, when signed by the Governor as Act 84. *Id.* Ex. 23.

II. STANDARDS OF REVIEW

The standard of review on a motion for summary judgment is well-settled:

Summary judgment is appropriate if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. A fact is material if proof of that fact would have the effect of establishing or refuting one of the essential elements of a cause of action or defense asserted by the parties. The evidence must be viewed in the light most

favorable to the non-moving party. In other words, [this court] must view all of the evidence and the inferences drawn therefrom in the light most favorable to the party opposing the motion.

Kamaka v. Goodsill Anderson Quinn & Stifel, 117 Hawai`i 92, 104, 176 P.3d 91, 103 (2008).

In cases that challenge the constitutionality of legislation, the constitutional standards are mandatory, and any violation renders the enactment void. *Schwab v. Ariyoshi*, 58 Haw. 25, 31, 564 P.2d 135, 139 (1977). But “every enactment of the legislature is presumptively constitutional, and a party challenging the statute has the burden of showing unconstitutionality beyond a reasonable doubt.” *Id.* “The infraction should be plain, clear, manifest, and unmistakable.” *Id.*

III. ARGUMENT

Act 84 crossed the line. It is rare that courts need enforce the bare minimum legislative process required by the Hawai`i Constitution. But the violations here are clear. Act 84 did not have three readings in the Senate as required by article III, section 15. While the Legislature may make germane amendments to bills without restarting the readings process, the hurricane shelter amendments were wholly unrelated to the original subject of S.B. 2858.

And Act 84’s title violated article III, section 14 because it failed to reflect the subject of the legislation. Titles may be broad, but cannot be so vague that it fails to apprise the reader of the bill’s subject and tends to conceal or obscure the purpose and effect of the proposed legislation. “Relating to public safety” tells the reader nothing about the anticipated change in the law and, as reflected in Act 84’s history, could mean anything from prison reports to school building designs. The Hawai`i Constitution requires more specificity.

A. Act 84 Did Not Pass Three Readings in the Senate.

1. *The three readings requirement ensures full debate of legislation and its consequences in each house.*

Article III, section 15 of the Hawai`i Constitution provides in relevant part: “No bill shall become law unless it shall pass three readings in each house on separate days.” “The three-reading requirement not only provides the opportunity for full

debate; it also ensures that each house of the legislature has given sufficient consideration to the effect of the bill.” *Taomae v. Lingle*, 108 Hawai‘i 245, 255, 118 P.3d 1188, 1198 (2005). The 1950 Constitutional Convention recognized the benefit of three readings in the Legislature:

One of the necessary features of laws adopted by the legislature is the necessity for three readings and the opportunity for full debate in the open before committees and in each House, during the course of which the purposes of the measures, and their meaning, scope, and probable effect, and the validity of the alleged facts and arguments given in their support can be fully examined, and if false or unsound, can be exposed, *before* any action of consequence is taken thereon.

Stand. Comm. Rep. No. 47 in 1 Proceedings of the Constitutional Convention of Hawai‘i of 1950 at 184.

The three readings requirement arises from a historical tradition in constitutional law.¹ This tradition further emphasizes the importance of three readings to provide the public and legislators an opportunity to comment on proposed legislation. *E.g.*, 1 Norman J. Singer & J.D. Shambie Singer, *Sutherland on Statutes and Statutory Construction* [Sutherland] § 10:4 at 546 (7th ed. 2010) (“The practice of having bills read on three different days also serves to provide notice that a measure is progressing through the enacting process, enabling interested parties to prepare their positions.”). “That it has such a purpose, that it is designed to prevent hasty and improvident legislation, and is therefore not a mere rule of order, but one of protection to the public interests and to the citizens at large, is very clear.” 1 Thomas Cooley, *A Treatise on the Constitutional Limitations Which Rest Upon the Legislative Power of the States of the American Union*, [Cooley] at 288 n.1 (Walter Carrington ed., 8th ed. 1927); *accord* 1 Sutherland § 10:4 at 547 (“Reading requirements are supposed to facilitate informed and meaningful deliberation on legislative proposals, and refinement and modification of the text of a proposal is the natural and desirable product of deliberation.”).

¹ A version of the three readings provision first appeared in article 64 of the 1894 Constitution of the Republic of Hawai‘i.

In *Taomae*, the Hawai'i Supreme Court held that the Legislature's enactment failed the three readings requirement.² 108 Hawai'i at 255, 118 P.3d. at 1198. In that case, a bill originated in the House to define by statute the standard for a jury to find "continuous sexual assault" in a criminal case. *Id.* at 248-49, 118 P.3d at 1191-92. After three readings in the House, the bill crossed over to the Senate and had its first reading. *Id.* at 248, 118 P.3d at 1192. Concerned that the bill would not be effective without a constitutional amendment, the Senate amended the bill at second reading to propose a constitutional amendment to grant the Legislature the power to define continuous sexual assault. *Id.* The constitutional amendment bill passed a second reading (a third reading of the bill number) in the Senate, before being sent back to the House. *Id.* The House eventually agreed with the amendments and passed the constitutional amendment bill on its first and only reading before the House. *Id.* The Hawai'i Supreme Court explained that after being modified to include the constitutional amendment, the bill did not pass three readings in both houses. *Id.* at 254, 118 P.3d at 1197. The court voided the act because the proposed constitutional amendment "received only three readings *in total*," not the three readings in each house as required by article III, section 15. *Id.* at 254-55, 118 P.3d at 1197-98.

As in *Taomae*, the State failed to satisfy the three readings requirement when enacting Act 84. In both instances, the fundamental nature of the bill changed on second reading after crossover to the non-originating house. The hurricane shelter bill here—like the constitutional amendment bill in *Taomae*—did not pass three readings in each house.

² The enactment in *Taomae* concerned a proposed constitutional amendment, but the supreme court construed the three readings requirement in article III, section 15 because the same standards apply. Haw. Const. art. XVII, § 3 ("The legislature may propose amendments to the constitution by adopting the same, *in the manner required for legislation . . .*" (emphasis added)).

2. *The hurricane shelter amendments were not germane to the community reentry reporting bill.*

The State does not need to restart the readings every time there is any amendment. *E.g.*, 1 Sutherland § 10:4 at 547 (“[I]t is generally agreed that germane amendments to the text of a bill made at the stage of second or third reading are valid even though the amended version is not read three times on three days.”). However, “if new provisions which are not germane to the text of the original bill are substituted after one or more readings, the new version of the bill cannot be validly enacted without the requisite readings following the substitution.” *Id.* at 547-48. The test is whether the amendments are germane to the original bill. *Id.*; 1 Cooley at 289 (“Where a bill has been read twice and referred to a committee who have reported a substitute, which is so germane to the original bill as to be a proper substitute, such substitute need not be read three times; a single reading will suffice.”); accord *Giebelhausen v. Daley*, 95 N.E.2d 84, 94 (Ill. 1950) (“In order to come within the rule that an amendment need not be read three times in each House, it must be germane to the general subject of the bill as originally introduced.”).

The Territorial Supreme Court adopted the following understanding of germaneness for constitutional analysis of legislation:

Literally, ‘germane’ means ‘akin’, ‘closely allied.’ It is only applicable to persons who are united to each other by the common ties of blood or marriage. When applied to inanimate things, it is, of course, used in a metaphorical sense, but still the idea of a common tie is always present. Thus, when properly applied to a legislative provision, the common tie is found in the tendency of the provision to promote the object and purpose of the act to which it belongs. Any provision not having this tendency, which introduces new subject matter into the act, is clearly obnoxious to the constitutional provision in question.

Territory v. Kua, 22 Haw. 307, 313 (Terr. 1914); accord *Giebelhausen*, 95 N.E.2d at 95 (“It is in order, therefore, to examine the language of the original bill to ascertain whether the one finally adopted is the original bill, properly amended, or a substituted bill, dealing with a new subject matter.”).

Under these principles, the hurricane shelter amendments were not germane to the original text of the community reentry reporting bill. Amendments relating to

hurricane shelter construction in state buildings had no relevance—much less a close alliance—to Department of Public Safety reports about inmate community reentry. Therefore, as a new bill after the non-germane amendments, S.B. 2858 needed to restart the required three readings in each house. Because Act 84 did not have three readings in the Senate after the non-germane amendments, Act 84 is a plain, clear, manifest, and unmistakable violation of the three readings requirement of article III, section 15.

B. “Relating to Public Safety” Is an Unconstitutionally Broad Title.

Article III, section 14 of the Hawai‘i Constitution provides in relevant part: “Each law shall embrace but one subject, which shall be expressed in its title.”³ “The purpose of this provision is, first, to prevent *hodge-podge* or *log-rolling* legislation; second, to prevent surprise or fraud upon the Legislature by means of provisions in bills of which the titles give no intimation; and third, to apprise the people of proposed matters of legislation.” *Jensen v. Turner*, 40 Haw. 604, 608 (Terr. 1954); accord 1 Cooley 296; 1A Sutherland § 18:2 at 45 (“The primary purpose of the constitutional requirement that the subject or object of a legislative act be expressed in its title is to insure reasonable notice of the purview to members of the assembly, and to the public.”).

Titles violate the constitution when they are so broad as to become meaningless and conceal or obscure the actual content of the bill.

It may be stated as a general proposition that the expression of subject in the title of an ordinance is sufficient if it calls attention to the general subject of the legislation. It is not necessary that the title refer to details within the general subject, nor those which may be reasonably considered as appropriately incident thereto, and the title is sufficient if it is germane to the one controlling subject of the ordinance. The crucial test of sufficiency of title is generally found in the answer to the question: Does the title tend to mislead or deceive the people or the municipal board as to the purpose or effect of the legislation, or to conceal or obscure the same? If it does, then the ordinance is void; if not, it is valid.

³ There are two components to this provision: (1) the single subject requirement; and (2) the subject-in-title requirement. This case concerns the title requirement.

Territory v. Dondero, 21 Haw. 19, 25 (Terr. 1912);⁴ accord 1A Sutherland § 18:2 at 48-52 (“The general test is whether the title is uncertain, misleading, or deceptive to the average reader. . . . The title to a bill need only indicate the general contents of the act. The title cannot, however, be so general that it tends to obscure the contents of the act.”); 26 Am. & Eng. Encyclopedia of Law at 582 (2d ed. 1904) (“But while generality is not objectionable so long as the subject of the legislation is fairly suggested, yet where the title is so very vague and general as not to furnish any intimation at all of the actual contents of the act, and is therefore calculated to mislead the legislature and the public, it will be declared unconstitutional.”).

Keeping in mind the intent of the title requirement to apprise the public of proposed legislation, titles are unconstitutional if “too broad and amorphous.” 1A Sutherland § 18:2 at 45; see *Jensen*, 40 Haw. at 608; *In re Goddard*, 35 Haw. 203, 208 (Terr. 1939) (“[T]he title must be such as to reasonably apprise the public of the interests that are or may be affected by the statute.” (citing 1 Cooley at 300)). A title is thus too broad and misleading if it fails to put a reasonable person on inquiry notice. *Schwab v. Ariyoshi*, 58 Haw. 25, 34, 564 P.2d 135, 141 (1977) (title constitutional if it “fairly indicates to the ordinary mind the general subject of the act”); 1A Sutherland § 18:2 at 48 (“All that is necessary is that anyone interested in or affected by the subject matter be put on inquiry”); 26 Am. & Eng. Encyclopedia of Law at 580-82 (“But the title must at least give a reasonable intimation of the subject dealt with, and the courts do not hesitate to declare void an act whose title is misleading in that it does not express the real subject of the act so as to put the legislature and those persons who are to be affected thereby on inquiry into its contents.”).

In *Jensen*, for example, the Territorial Supreme Court addressed an act that concerned the use of voting machines and the validity of write-in ballots. 40 Haw. at 605-07. The court explained that both matters theoretically could be expressed by the

⁴ Although *Dondero* concerned the title requirement in the City Charter, the Hawai‘i Supreme Court has used the same standard for interpreting the Hawai‘i Constitution. E.g., *Villon v. Marriott Hotel Servs., Inc.*, 130 Hawai‘i 130, 140 306 P.3d 175, 185 (2013) (citing *Dondero* for interpretation of the constitutional title requirement).

single broad subject of elections. *Id.* at 608. “[Y]et a sweeping change such as contended for, which would make radical changes in both the primary and election laws, should be included in the title to give proper notice to legislators and to the electorate at large.” *Id.*; accord 1A Sutherland at 93 (“[T]he words ‘economic development’ were too broad and amorphous to describe the subject of a pending bill with the precision necessary to provide notice of its contents.”).

Here, “public safety” is worse than the *Jensen* court’s hypothetical “elections” title. The words “public safety” tell the public nothing about the content of S.B. 2858. As reflected in the history of S.B. 2858—changing from a community reentry reporting bill to a hurricane shelter bill—such a title can ostensibly include an unlimited range of topics. The same title has been used in past legislative sessions to cover bills about: shipping container inspections for fireworks (H.B. 7, 2017); establishing a medical marijuana commission to make recommendations about dispensaries (H.B. 2534, 2016); installation of residential fire protection sprinkler systems (S.B. 2170, 2016); prohibiting general contractors from performing the work of a specialty contractor without a license (H.B. 130, 2015); appropriating funds for the repair of a Waikīkī seawall (H.B. 84, 2011); imposing a tort duty on private landowners to inspect and mitigate where there is a potential danger of falling rocks (H.B. 1261, 2003). “Public safety” is so broad that it obscures and conceals the contents of a bill.

Contrary to the State’s suggestion, the advent of the Internet does not change the Hawai‘i Constitution. *See* State Mem. at 9. Recently, the Hawai‘i Supreme Court acknowledged that “the title of a bill cannot be considered just a ‘remnant’ of the legislative process.” *Villon*, 130 Hawai‘i at 140, 306 P.3d at 185. The State’s argument that, because of the Internet, “the public and lawmakers do not need to rely on the title of a bill to ‘assess generally the proposed law’s impact and any interest in the bill’” is not based on any legal authority and relies on a flawed factual assumption—without evidentiary support—that all citizens have access and skills to navigate the Legislature’s website.

Because “public safety” expresses nothing about the subject of the bill, no reasonable person would be on inquiry notice that the bill may interest or affect them.

A member of the public cannot know whether a “public safety” bill concerns fireworks, medical marijuana, seawalls, inmate recidivism, hurricane shelters, or any number of other topics. Public safety is effectively meaningless to the average person and only obscures from the public rather than apprise them as to the contents of the bill. The overly broad title flouts the constitutional intent of the title requirement. Act 84 is a plain, clear, manifest and unmistakable violation of the subject-in-title requirement of article III, section 14.

C. The Hawai`i Constitution Protects the Role of the General Public in the Legislative Process.

Fundamental principles of democracy require that the people of Hawai`i have a meaningful opportunity to comment on legislation. Public participation in the legislative process is an important and constitutionally protected right. *E.g., Taomae*, 108 Hawai`i at 253, 118 P.3d at 1196 (“[T]here must be public participation as ordinarily contemplated in the case of statutory legislation.”). The bare minimum of the three readings and title requirements of the Hawai`i Constitution ensure that the public is fairly apprised of the subjects of proposed legislation and has a reasonable opportunity to express a position. *Id.* at 252, 118 P.3d at 1195 (“The titles of those bills provided the public with clear notice concerning the nature and context of the legislation and, thus, alerted the citizenry to the opportunity to legislatively comment and debate those bills in a meaningful way.”). This deliberate collective process among legislators and the public avoids the dangers of rushed and half-baked legislation. *Id.* (“The procedure followed hereunder eliminated the mature deliberation, amendment and compromise usually necessary to produce sound and lasting legislation . . .”).

Last-minute changes also foster public confusion and frustration with the process. The community reentry reporting bill drew testimony from Young Progressives Demanding Action, Community Alliance on Prisons, ACLU, Hawai`i Justice Coalition, Office of Hawaiian Affairs, the Democratic Party, as well as many individuals. Black Decl. Ex. 12. At the only chance for public testimony on the hurricane shelter bill, the testimony from the Office of Hawaiian Affairs and Young Progressives Demanding Action reflected that frustration. Neither organization offered

comment on the hurricane shelter bill, but instead opposed the amendments and requested that the bill revert to its original subject matter. *Id.* Ex. 17.

D. The Separation of Powers Doctrine Does Not Preclude Judicial Review of Legislation Based on Constitutional Standards.

The Legislature's power to enact laws is expressly subject to constitutional limitations. Haw. Const. art. III, § 1 ("The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation *not inconsistent with this constitution* or the Constitution of the United States.") (emphasis added); accord *State v. Nakata*, 76 Hawai'i 360, 379, 878 P.2d 699, 718 (1994) (rejecting separation of powers argument because the court "independently determines whether [the Legislature's use of a label with constitutional significance] is justified"). And the courts are the "ultimate interpreters" of the constitution. *E.g.*, *Nakata*, 76 Hawai'i at 370, 878 P.2d at 709 ("Above all is the constitution."); accord *AlohaCare v. Dep't of Human Serv.*, 127 Hawai'i 76, 87, 276 P.3d 645, 656 (2012); see generally *Marbury v. Madison*, 5 U.S. 137, 180, (1803) (laws repugnant to the U.S. Constitution are void). Thus, this Court is empowered to void any legislation that is deficient under any provision of the Hawai'i Constitution. *Id.*

In *Taomae*, the Hawai'i Supreme Court effectively rejected the argument now made by the State here. In that case, Governor Lingle argued that the separation of powers doctrine precluded judicial review of the constitutionality of a legislative enactment. 108 Hawai'i at 256-57, 118 P.3d 1199-1200 ("Defendants' arguments that this is a political, and not judicial, question are unconvincing."). Hawai'i courts have voided legislation based on similar constitutional challenges. *E.g.*, *Territory v. Kua*, 22 Haw. 307, 317 (Terr. 1914); *Territory v. Furubayashi*, 20 Haw. 559 (Terr. 1911). And in numerous other cases, courts considered challenges to the constitutional sufficiency of a bill's title. *E.g.*, *Villon*, 130 Hawai'i at 140, 306 P.3d at 185; *Schwab*, 58 Haw. at 30, 564 P.2d at 139. No Hawai'i case has ever held that a challenge to legislation based on the three readings or title requirements of the Hawai'i Constitution was nonjusticiable.

The State misreads *Schwab*. See State Mem. at 10. First, as relevant to this case, *Schwab* expressly reaffirms that the title provision of the Hawai`i constitution “is mandatory, and a violation thereof would render an enactment nugatory.” *Schwab*, 58 Haw. at 30, 564 P.2d at 139. But plaintiffs in *Schwab* also challenged whether the Legislature complied with its own rules of procedure—a claim that is not made in this case. *Id.* at 39, 564 P.2d at 143-44; see Compl. This case only concerns the constitutional requirements of article III, sections 14 and 15. In recognizing the justiciability of such constitutional claims, the *Schwab* court observed: “the power of the legislature should not be interfered with *unless it is exercised in a manner which plainly conflicts with some higher law.*” *Schwab*, 58 Haw. at 39, 564 P.2d at 144 (emphasis added). And as quoted—but apparently ignored—by the State: “We will not interfere with the conduct of legislative affairs in absence of a constitutional mandate to do so, or unless the procedure or result constitutes a deprivation of constitutionally guaranteed rights.” *Id.* at 37, 564 P.2d at 143. The claims here fall squarely within the justiciability ruling of *Schwab*.

The State’s other cases are equally unavailing. While the Hawai`i Constitution assigns power to the Legislature to enact rules of procedure, it is irrational to suggest that such power authorizes the Legislature to ignore the constitutional requirements set forth in other provisions of the constitution. Unlike *Hussey*, for example, here, there is no “textually demonstrative constitutional commitment of the issue to a coordinate political department.” *Hussey v. Say*, 139 Hawai`i 181, 188, 384 P.3d 1282, 1289 (2016).⁵

The supreme court has treated similar constitutional challenges to legislation as justiciable for over a century. The State’s separation of powers argument is frivolous.

⁵ *Hussey* involved a challenge to a state legislator’s qualifications for office, alleging his place of residence was not in the district he represented. 139 Hawai`i at 184, 384 P.3d at 1285. The issue was nonjusticiable because the constitution provided clear guidance that the Legislature is the exclusive authority to determine qualifications for its members. *Id.* at 187, 384 P.3d at 1288.

E. The Hawai'i Constitution Provides the Legislature Ample Flexibility to Address Emergencies.

The State argues that the Hawai'i Constitution unfairly limits the Legislature's ability to deal with emergencies. *See* State Mem. at 14-15. The State's policy arguments are irrelevant to any constitutional analysis. But more fundamentally, the State is simply wrong that the minimal requirements of the Hawai'i Constitution make it impossible for the Legislature to address emergencies.

As an initial matter, the Court must decide whether Act 84 was constitutionally enacted – not whether any virtue exists in the legislative procedure that enacted it. *Nakata*, 76 Hawai'i at 370, 878 P.2d at 709.

When addressing the constitutionality of a statute, we have cautioned that whether the legislation under review is wise or unwise is a matter with which we have nothing to do. Whether it works well or works ill presents a question entirely irrelevant to the issue. The only legitimate inquiry we can make is whether it is constitutional. If it is not, its virtues, if it have any, cannot save it; if it is, its faults cannot be invoked to accomplish its destruction. If the provisions of the Constitution be not upheld when they pinch as well as when they comfort, they may as well be abandoned.

Id. Thus, the State's policy arguments about the need for legislative flexibility are irrelevant.

The State's professed need for flexibility also lacks merit. The constitution only requires three readings. Haw. Const. art III, § 15. That means that any law could be constitutionally enacted within a week. Nothing in the constitution would prevent the Legislature from, for example, introducing a new bill during the middle of the legislative session in response to an emergency and passing it as law within a week. The constitutional requirements impose no unreasonable burden on the Legislature, and, as already explained, serve a critical function in our democracy.

The examples of other legislative enactments cited by the State have no bearing on the constitutionality of Act 84 and are not clearly analogous to the circumstances of enacting Act 84. Moreover, if Act 84 is good public policy, the public will suffer no hardship with respect to voiding it because the Legislature

may advance identical legislation in a manner that complies with the Hawai'i Constitution. *See Taomae*, 108 Hawai'i at 256, 118 P.3d at 1199 (the wide vote margin in favor of the constitutional amendment had no legal significance, and the Legislature would suffer no permanent hardship from invalidating it).

Enacting laws that bear no resemblance to the bill as passed by the originating chamber eviscerates the three readings and title requirements. This process undermines public confidence and may lead to hastily crafted legislation. Plaintiffs are entitled to declaratory relief that holds the State to the constitutionally required minimum process for enacting legislation.

CONCLUSION

Plaintiffs respectfully requests that this Court grant summary judgment in favor of the League of Women Voters of Honolulu and Common Cause and declare that (1) the State violated the three readings and title requirements of article III, sections 14 and 15 of the Hawai'i Constitution by enacting Act 84, and (2) Act 84 is void as unconstitutional.

DATED: Honolulu, Hawai'i, October 25, 2018



ROBERT BRIAN BLACK
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813
Tel. (808) 531-4000
brian@civilbeatlawcenter.org
*Attorney for League of Women Voters of Honolulu
and Common Cause*

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC
(Other Civil Action)

DECLARATION OF R. BRIAN BLACK;
EXHIBITS 1-23

DECLARATION OF R. BRIAN BLACK

1. I am attorney for the Plaintiffs in this action. I make this declaration in support of the Motion for Summary Judgment based on review of public records.
2. Attached as Exhibit 1 is a true and correct copy of S.B. 2858 (2018) in the form originally introduced, as posted by the Legislature on capitol.hawaii.gov.
3. Attached as Exhibit 2 is a true and correct copy of excerpts from the Senate Order of the Day for January 24, 2018, Supplement No. 1, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.
4. Attached as Exhibit 3 is a true and correct copy of the Measure Status page for S.B. 2858, as posted by the Legislature on capitol.hawaii.gov.
5. Attached as Exhibit 4 is a true and correct copy of the February 9, 2018 committee report for the Senate Committee on Public Safety, Intergovernmental, and Military Affairs regarding S.B. 2858—Senate Standing Committee Report No. 2168—as posted by the Legislature on capitol.hawaii.gov.
6. Attached as Exhibit 5 is a true and correct copy of excerpts from the Senate Order of the Day for February 9, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.
7. Attached as Exhibit 6 is a true and correct copy of S.B. 2858 S.D. 1, as posted by the Legislature on capitol.hawaii.gov.

8. Attached as Exhibit 7 is a true and correct copy of the March 2, 2018 committee report for the Senate Committee on Ways and Means regarding S.B. 2858 – Senate Standing Committee Report No. 2714 – as posted by the Legislature on capitol.hawaii.gov.

9. Attached as Exhibit 8 is a true and correct copy of excerpts from the Senate Order of the Day for March 6, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.

10. Attached as Exhibit 9 is a true and correct copy of S.B. 2858 S.D. 2, as posted by the Legislature on capitol.hawaii.gov.

11. Attached as Exhibit 10 is a true and correct copy of the House Order of the Day for March 8, 2018, as posted by the Legislature on capitol.hawaii.gov.

12. Attached as Exhibit 11 is a true and correct copy of excerpts from House Committee Referrals No. 36 for March 8, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.

13. Attached as Exhibit 12 is a true and correct compilation of testimony submitted to the Senate committees concerning S.B. 2858, as posted by the Legislature on capitol.hawaii.gov.

14. Attached as Exhibit 13 is a true and correct copy of testimony submitted to the House Committee on Public Safety concerning S.B. 2858, as posted by the Legislature on capitol.hawaii.gov.

15. Attached as Exhibit 14 is a true and correct copy of the March 21, 2018 committee report for the House Committee on Public Safety regarding S.B. 2858 – House Standing Committee Report No. 1255-18 – as posted by the Legislature on capitol.hawaii.gov.

16. Attached as Exhibit 15 is a true and correct copy of excerpts from the House Order of the Day for March 21, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.

17. Attached as Exhibit 16 is a true and correct copy of S.B. 2858 H.D. 1, as posted by the Legislature on capitol.hawaii.gov.

18. Attached as Exhibit 17 is a true and correct copy of testimony submitted to the House Committee on Finance concerning S.B. 2858, as posted by the Legislature on capitol.hawaii.gov.

19. Attached as Exhibit 18 is a true and correct copy of the April 6, 2018 committee report for the House Committee on Finance regarding S.B. 2858 – House Standing Committee Report No. 1912-18 – as posted by the Legislature on capitol.hawaii.gov.

20. Attached as Exhibit 19 is a true and correct copy of excerpts from the House Order of the Day for April 6, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.

21. Attached as Exhibit 20 is a true and correct copy of the April 27, 2018 committee report for the Conference Committee on S.B. 2858 – Conference Committee Report No. 93-18 – as posted by the Legislature on capitol.hawaii.gov.

22. Attached as Exhibit 21 is a true and correct copy of excerpts from the House Order of the Day for May 1, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.

23. Attached as Exhibit 22 is a true and correct copy of excerpts from the Senate Order of the Day for May 1, 2018, concerning S.B. 2858 as posted by the Legislature on capitol.hawaii.gov.

24. Attached as Exhibit 23 is a true and correct copy of Governor's Message No. 1185 regarding the enactment, and attaching a copy, of Act 84, as posted by the Legislature on capitol.hawaii.gov.

I, R. BRIAN BLACK, do declare under penalty of law that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, October 25, 2018



R. BRIAN BLACK

JAN 24 2018

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 8, First Special Session Laws of Hawaii
2 2007 (Act 8), enacted the Community Safety Act, which was
3 codified as chapter 353H, Hawaii Revised Statutes. The
4 Community Safety Act established a comprehensive offender
5 reentry system under the purview of the department of public
6 safety. Act 8 also required the department of public safety to
7 submit to the legislature annual reports through 2010 relating
8 to the implementation, progress, and effectiveness of the
9 program components specified in Act 8.

10 While the department of public safety's annual report lists
11 program activities and statistics, it does not include
12 information on program outcomes. The legislature finds that
13 performance indicators are an effective way to track the
14 progress of the comprehensive reentry system and to reflect any
15 change to the department's approach to rehabilitation and
16 reentry as mandated by Act 8.

17 The purpose of this Act is to:



S.B. NO. 2858

(1) Require the department of public safety to establish key performance indicators or measures to be incorporated in reports that evaluate the department's efforts to improve offender reentry and rehabilitation; and

(2) Consolidate into one report other specified reports of the department of public safety.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Annual corrections and program report. (a) No later than twenty days prior to the convening of each regular session, beginning with the regular session of 2019, the department shall submit an annual corrections and program report, among other reports that may be required from time to time, that consolidates into one report the reports required by the following laws:

(1) Act 144, Session Laws of Hawaii 2007, section 4, relating to mental health services for committed persons;



1 (2) Act 213, Session Laws of Hawaii 2007, section 105,
2 relating to mental health services at certain
3 correctional facilities;
4 (3) Act 240, Session Laws of Hawaii 2008, section 5,
5 relating to children of incarcerated persons;
6 (4) Act 193, Session Laws of Hawaii 2010, relating to
7 cognitive restructuring;
8 (5) Section 353H- , relating to key performance
9 indicators; and
10 (6) Section 367D-8, relating to gender-responsive programs
11 for women;
12 provided that the repeal or expiration of any individual
13 reporting requirement described in paragraphs (1) through (6)
14 shall not repeal or otherwise affect the department's duty to
15 submit the same report pursuant to this section.
16 (b) The department shall post the report electronically on
17 the department's website in a timely manner."
18 SECTION 3. Chapter 353H, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§353H- Key performance indicators; reporting. (a)

2 The department shall develop key performance indicators that
3 accurately reflect progress toward specific goals, including:

4 (1) Reducing the rate of recidivism;

5 (2) Decreasing prisoner assaults on correctional staff;

6 (3) Reducing correctional staff turnover; and

7 (4) Improving departmental efficiencies in staffing,
8 budgeting, and data management and analysis.

9 (b) The department shall submit a report to the
10 legislature no later than twenty days prior to the convening of
11 each regular session, beginning with the regular session of
12 2019. Each report shall reference key performance indicators
13 for that period that track rehabilitation and reentry efforts
14 for individuals who are prepared to exit the correctional
15 system.

16 (c) The key performance indicators shall include:

17 (1) The total number of intakes, by month, including how
18 many intakes in each month have been in the system
19 within the last year and the last five years;



- 1 (2) Offender demographics, including gender, race, age,
2 crime type, and whether the offender was placed in
3 jail or prison;
- 4 (3) The number of individuals who have obtained a high
5 school diploma by successfully completing the general
6 educational development test or an equivalent
7 competency-based diploma;
- 8 (4) The number of individuals who received vocational
9 training or rehabilitation and the type of vocational
10 training or rehabilitation;
- 11 (5) The number of inmates with substance abuse problems,
12 including the type of dependence or addiction, the
13 total number of inmates with substance abuse problems,
14 and the total number of inmates with no reported
15 substance issues;
- 16 (6) Drug test failure rates of inmates while incarcerated
17 and while on parole;
- 18 (7) The number of individuals who have completed a drug
19 treatment program provided by the department;
- 20 (8) The number of individuals who have completed
21 restorative circles;



- 1 (9) The cost per inmate per day, per facility;
2 (10) The median length of stay, excluding inmates who have
3 life or parole sentences;
4 (11) The total number of inmates released, by month;
5 (12) The number of individuals for whom a reentry plan is
6 filed and the number of individuals who exit jail or
7 prison with a reentry plan; and
8 (13) The prison population forecast for the next decade.
9 (d) The department shall post the reports electronically
10 on the department's website in a timely manner."

11 SECTION 4. New statutory material is underscored.

12 SECTION 5. This Act shall take effect upon its approval.
13

INTRODUCED BY:

Clarence W. Rushkover

[Signature]

Rosely H. Bell

Will Giv



S.B. NO. 2858

Report Title:

Inmate Rehabilitation; Reentry System; Performance Indicators

Description:

Requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



THE SENATE
OF THE
TWENTY-NINTH LEGISLATURE
STATE OF HAWAII
REGULAR SESSION OF 2018

FIFTH DAY

JANUARY 24, 2018-WEDNESDAY

SUPPLEMENT NO. 1

ORDER OF BUSINESS

INTRODUCTION OF MEASURES: Senate Bill Nos. 3011 – 3107

ORDER OF THE DAY

REFERRALS AND RE-REFERRALS

REFERRALS FOR WEDNESDAY, JANUARY 24, 2018

<u>MEASURE</u>	<u>TITLE</u>	<u>REFERRAL</u>
<u>S.B. 2779</u>	RELATING TO THE HAWAII TEACHER STANDARDS BOARD. (Board membership; Permits)	EDU/HWN/HRE, WAM
<u>S.B. 2780</u>	RELATING TO PUBLIC LIBRARIES. (Hawaii State Public Library System)	EDU, WAM
<u>S.B. 2781</u>	RELATING TO THE INCOME CHECK- OFF. (Income Tax; Check-off)	EDU, WAM
<u>S.B. 2782</u>	RELATING TO PERSONAL PRIVACY. (Department of Hawaiian Home Lands; Disclosure of Government Records)	HWN, JDC

<u>S.B. 2851</u>	RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS. (Revision Bill)	JDC
<u>S.B. 2852</u>	RELATING TO THE WEED AND SEED STRATEGY. (Grants; Weed and Seed Program; Appropriation)	PSM, JDC/WAM
<u>S.B. 2853</u>	RELATING TO MONEY TRANSMITTERS. (Money Transmitters; Virtual Currency)	CPH
<u>S.B. 2854</u>	RELATING TO MOPEDS. (Mopeds; Registration Requirements; Fine)	TRE, JDC/WAM
<u>S.B. 2855</u>	RELATING TO TEACHER HOUSING. (Housing Voucher Program; Full-time Teachers; Hawaii Housing Finance and Development Corporation)	HOU/EDU, WAM
<u>S.B. 2856</u>	RELATING TO TAXATION. (Tax Credits; Low-Income Household Renters; Consumer Price Index)	HOU, WAM
<u>S.B. 2857</u>	RELATING TO CAPITAL IMPROVEMENT PROJECTS FOR THE BENEFIT OF THE SEVENTEENTH SENATORIAL DISTRICT. (CIP; Senate; 17th Senatorial District; Appropriation)	WAM
<u>S.B. 2858</u>	RELATING TO PUBLIC SAFETY. (Inmate Rehabilitation; Reentry System; Performance Indicators)	PSM, WAM

SB2858 SD2 HD1 CD1

Measure Title: RELATING TO PUBLIC SAFETY.

Report Title: Public Safety; Public Improvements; State Building Design and Construction; New Public Schools; Disaster Preparedness; Hurricane; Standards

Description: Requires the State to consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge. (CD1)

Companion:

Package: None

Current Referral: PBS, FIN

Introducer(s): NISHIHARA, BAKER, ESPERO, Wakai

<u>Sort by</u> <u>Date</u>	<u>Status</u>	<u>Text</u>
1/24/2018	S	Introduced.
1/24/2018	S	Passed First Reading.
1/24/2018	S	Referred to PSM, WAM.
1/26/2018	S	The committee(s) on PSM has scheduled a public hearing on 01-30-18 1:15PM in conference room 229.
1/30/2018	S	The committee(s) on PSM deferred the measure until 02-06-18 1:15PM in conference room 229.
2/6/2018	S	The committee(s) on PSM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in PSM were as follows: 5 Aye(s): Senator(s) Nishihara, Wakai, Baker, Ihara, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/9/2018	S	Reported from PSM (Stand. Com. Rep. No. 2168) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/9/2018	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/16/2018	S	The committee(s) on WAM will hold a public decision making on 02-23-18 10:00AM in conference room 211.
2/23/2018	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 9 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Galuteria, Harimoto, Inouye, Kidani, Riviere, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) K. Kahele, Shimabukuro.
3/2/2018	S	Reported from WAM (Stand. Com. Rep. No. 2714) with recommendation of passage on Third Reading, as amended (SD 2).
3/2/2018	S	48 Hrs. Notice 03-06-18.
3/6/2018	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/6/2018	H	Received from Senate (Sen. Com. No. 339) in amended form (SD 2).
3/8/2018	H	Pass First Reading
3/8/2018	H	Referred to PBS, FIN, referral sheet 36
3/13/2018	H	Bill scheduled to be heard by PBS on Thursday, 03-15-18 10:30AM in House conference room 312.
3/15/2018	H	The committees on PBS recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Takayama, Gates, Creagan, Say, Thielen; Ayes with reservations: none; 0 Noes: none; and 2 Excused: Representative(s) DeCoite, Ing.
3/21/2018	H	Reported from PBS (Stand. Com. Rep. No. 1255-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
3/21/2018	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with none voting aye with reservations; none voting no (0) and Representative(s) Ing, C. Lee, McKelvey, Souki, Todd, Ward excused (6).
3/24/2018	H	Bill scheduled to be heard by FIN on Wednesday, 03-28-18 3:00PM in House conference room 308.

3/28/2018	H	The committees on FIN recommended that the measure be PASSED, UNAMENDED. The votes were as follows: 13 Ayes: Representative(s) Luke, Cullen, Cachola, DeCoite, Fukumoto, Gates, Keohokalole, Lowen, Nakamura, Yamashita, Ward; Ayes with reservations: Representative(s) Holt, Todd; 1 Noes: Representative(s) Kobayashi; and 1 Excused: Representative(s) Tupola.
4/6/2018	H	Reported from FIN (Stand. Com. Rep. No. 1912-18), recommending passage on Third Reading.
4/6/2018	H	Passed Third Reading with Representative(s) Har, Tupola voting aye with reservations; Representative(s) Kobayashi, Nakamura voting no (2) and Representative(s) Holt excused (1). Transmitted to Senate.
4/10/2018	S	Received from House (Hse. Com. No. 531).
4/10/2018	S	Senate disagrees with House amendments.
4/10/2018	H	Received notice of disagreement (Sen. Com. No. 778).
4/16/2018	H	House Conferees Appointed: Takayama, Gates Co-Chairs; Yamashita, Thielen.
4/16/2018	S	Received notice of appointment of House conferees (Hse. Com. No. 610).
4/18/2018	S	Senate Conferees Appointed: Nishihara Chair; Shimabukuro Co-Chair; L. Thielen.
4/18/2018	H	Received notice of Senate conferees (Sen. Com. No. 794).
4/23/2018	S	Conference committee meeting scheduled for 04-25-18 10:00AM in conference room 016.
4/25/2018	S	Conference committee meeting to reconvene on 04-26-18 10:00AM in conference room 016.
4/26/2018	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 3 Aye(s): Senator(s) Nishihara, Shimabukuro, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/26/2018	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 3 Ayes: Representative(s) Takayama, Gates, Yamashita; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Thielen.
4/27/2018	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 93-18).
4/27/2018	S	48 Hrs. Notice (as amended CD 1) 05-01-18.
4/27/2018	H	Reported from Conference Committee (Conf Com. Rep. No. 93-18) as amended in (CD 1).
4/27/2018	H	Forty-eight (48) hours notice Tuesday, 05-01-18.
5/1/2018	H	Passed Final Reading as amended in CD 1 with none voting aye with reservations; none voting no (0) and none excused (0).
5/1/2018	S	Passed Final Reading, as amended (CD 1). Ayes, 25; Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
5/1/2018	H	Received notice of Final Reading (Sen. Com. No. 849).
5/3/2018	S	Received notice of passage on Final Reading in House (Hse. Com. No. 705).
5/3/2018	S	Enrolled to Governor.
7/5/2018	H	Act 084, on 06/29/2018 (Gov. Msg. No. 1185).
7/5/2018	S	Act 084, 06/29/2018 (Gov. Msg. No. 1185).

S = Senate | H = House | D = Data Systems | \$ = Appropriation measure | ConAm = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB2858 SD2 HD1 CD1

Honolulu, Hawaii

FEB 09 2018

RE: S.B. No. 2858
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Public Safety, Intergovernmental, and
Military Affairs, to which was referred S.B. No. 2858 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Department of Public Safety to establish key performance indicators for the inmate reentry system;
- (2) Require reports, using key performance indicators, to be provided to the Legislature; and
- (3) Create the annual corrections and program report as a consolidated report of other annual reports.

Your Committee received testimony in support of this measure from Young Progressives Demanding Action, Life of the Land, Community Alliance on Prisons, ACLU of Hawaii, and two individuals. Your Committee received comments on this measure from the Department of Public Safety.

Your Committee finds that effective rehabilitation of incarcerated persons is essential for operating an effective corrections system. To that end, the Legislature passed Act 8, Special Session Laws of Hawaii 2007, also known as the Community



Safety Act, which established a comprehensive offender reentry system under the purview of the Department of Public Safety. Part of that Act required that the Department submit annual reports relating to the implementation, progress, and effectiveness of the various program components specified in the Act. However, the annual reports submitted by the Department are not required to include information relating to rehabilitation program outcomes. This measure ensures the effectiveness of and makes improvements to the Department's rehabilitation and reentry programs by requiring tracking of specific performance indicators. In addition, this measure streamlines the Department's submission of various statutorily required reports by requiring the Department to consolidate into one report other reports specified by statute.

Further, your Committee finds that the Department of Public Safety should begin addressing the many issues relating to pretrial detainees. To that end, your Committee finds that in its report, the Department should also relate information to the Legislature about key performance indicators relating to pretrial detainees.

Your Committee has amended this measure by:

- (1) Amending the key performance indicators that are required to be included in the Department of Public Safety's annual report to the Legislature; and
- (2) 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 Public Safety, Intergovernmental, and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 1, and be referred to your Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committee on Public Safety,
Intergovernmental, and Military
Affairs,



CLARENCE K. NISHIHARA, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Public Safety, Intergovernmental, and Military Affairs
PSM

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 2858</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">PSM, WAM</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/6/18</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312 </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311 </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310 </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313 </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
IHARA, Jr., Les	✓			
THIELEN, Laura H.	✓			
TOTAL	5	0	0	0
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature:				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes

‘Aha Kenekoa ‘Aha‘ōlelo Iwakāluakumamāiwa
THE SENATE
OF THE
TWENTY-NINTH LEGISLATURE
Moku‘āina ‘O Hawai‘i
STATE OF HAWAII
‘Ākoakoa Kūmau MH 2018
REGULAR SESSION OF 2018

Lā ‘Umikumamālima
FIFTEENTH DAY

9 Pepeluali 2018 - Po‘alima - Hola 11:30 A.M.
FEBRUARY 9, 2018-FRIDAY-11:30 O'CLOCK A.M.

Papahana O Ka Lā
ORDER OF BUSINESS

Kāhea Papainoa
ROLL CALL

‘Āpono Mo‘olelo O Ka Puke Hālāwai
APPROVAL OF THE JOURNAL

Ho‘olauna Mea Kīpa
INTRODUCTIONS

- Ho‘olauna Ma Ka ‘Ākoakoa Nui
- FLOOR PRESENTATION

RECOGNIZING AND CONGRATULATING KALANI VIERRA AND KRYSTL
APELES ON BECOMING THE 11TH ANNUAL 2017 INTERNATIONAL TANDEM
SURFING ASSOCIATION CHAMPIONS. (Senator Kouchi)

Ho‘oka‘a‘ike Mai Ke Kia‘āina
MESSAGES FROM THE GOVERNOR: None

Ho‘oka‘a‘ike Mai Nā ‘Oihana
DEPARTMENTAL COMMUNICATIONS: None

Ho‘oka‘a‘ike No Ka Hale
HOUSE COMMUNICATIONS: None

<u>2165</u>	(PSM)	<u>S.B. No. 2436, S.D. 1</u> "RELATING TO FIREARMS." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to JDC)
<u>2166</u>	(PSM)	<u>S.B. No. 2290, S.D. 1</u> "RELATING TO LAW ENFORCEMENT." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to JDC)
<u>2167</u>	(PSM)	<u>S.B. No. 2347, S.D. 1</u> "RELATING TO POLICE DEPARTMENTS." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to JDC)
<u>2168</u>	(PSM)	<u>S.B. No. 2858, S.D. 1</u> "RELATING TO PUBLIC SAFETY." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to WAM)
<u>2169</u>	(PSM)	<u>S.B. No. 2861, S.D. 1</u> "RELATING TO PUBLIC SAFETY." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to WAM)
<u>2170</u>	(PSM)	<u>S.B. No. 2962, S.D. 1</u> "RELATING TO DIVORCE." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to JDC)
<u>2171</u>	(PSM/HOU)	<u>S.B. No. 2758, S.D. 1</u> "RELATING TO HOUSING." (Recommends passage on <u>SECOND</u> <u>READING</u> and referral to WAM)

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 8, First Special Session Laws of Hawaii
2 2007 (Act 8), enacted the Community Safety Act, which was
3 codified as chapter 353H, Hawaii Revised Statutes. The
4 Community Safety Act established a comprehensive offender
5 reentry system under the purview of the department of public
6 safety. Act 8 also required the department of public safety to
7 submit to the legislature annual reports through 2010 relating
8 to the implementation, progress, and effectiveness of the
9 program components specified in Act 8.

10 While the department of public safety's annual report lists
11 program activities and statistics, it does not include
12 information on program outcomes. The legislature finds that
13 performance indicators are an effective way to track the
14 progress of the comprehensive reentry system and to reflect any
15 change to the department's approach to rehabilitation and
16 reentry as mandated by Act 8.

17 The purpose of this Act is to:



(1) Require the department of public safety to establish key performance indicators or measures to be incorporated in reports that evaluate the department's efforts to improve offender reentry and rehabilitation; and

(2) Consolidate into one report other specified reports of the department of public safety.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Annual corrections program report. (a) No later than twenty days prior to the convening of each regular session, beginning with the regular session of 2019, the department shall submit an annual corrections and program report, among other reports that may be required from time to time, that consolidates into one report the reports required by the following laws:

(1) Act 144, Session Laws of Hawaii 2007, section 4, relating to mental health services for committed persons;



1 (2) Act 213, Session Laws of Hawaii 2007, section 105,
2 relating to mental health services at certain
3 correctional facilities;

4 (3) Act 240, Session Laws of Hawaii 2008, section 5,
5 relating to children of incarcerated persons;

6 (4) Act 193, Session Laws of Hawaii 2010, relating to
7 cognitive restructuring;

8 (5) Section 353H- , relating to key performance
9 indicators; and

10 (6) Section 367D-8, relating to gender-responsive programs
11 for women;

12 provided that the repeal or expiration of any individual
13 reporting requirement described in paragraphs (1) through (6)
14 shall not repeal or otherwise affect the department's duty to
15 submit the same report pursuant to this section.

16 (b) The department shall post the report electronically on
17 the department's website in a timely manner."

18 SECTION 3. Chapter 353H, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



1 "§353H- Key performance indicators; reporting. (a) The
2 department shall develop key performance indicators that
3 accurately reflect progress toward specific goals, including:

- 4 (1) Reducing the rate of recidivism;
5 (2) Decreasing prisoner assaults on correctional staff;
6 (3) Reducing correctional staff turnover; and
7 (4) Improving departmental efficiencies in staffing,
8 budgeting, and data management and analysis.

9 (b) The department shall submit a report to the
10 legislature no later than twenty days prior to the convening of
11 each regular session, beginning with the regular session of
12 2019. Each report shall reference key performance indicators
13 for that period that track rehabilitation and reentry efforts
14 for individuals who are prepared to exit the correctional
15 system.

16 (c) The key performance indicators shall include:

- 17 (1) The total number of intakes, by month, including how
18 many intakes by facility in each month have been in
19 the system within the last year;
20 (2) Offender population counts by facility for each month
21 of the year;



- 1 (3) The number of individuals who have obtained a high
2 school diploma by successfully completing the general
3 educational development test or an equivalent
4 competency-based diploma;
- 5 (4) The number of individuals who received vocational
6 training or rehabilitation programming;
- 7 (5) The number of inmates assessed with substance abuse
8 problems, and the total number of inmates assessed
9 with no reported substance issues;
- 10 (6) Drug test failure rates of inmates while incarcerated;
- 11 (7) The number of individuals who have completed a drug
12 treatment program provided by the department;
- 13 (8) The number of individuals who have completed drug
14 education classes and out-patient treatment services;
- 15 (9) The cost per inmate per day, per facility;
- 16 (10) The median length of stay, excluding inmates who have
17 life or parole sentences;
- 18 (11) The total number of inmates released, by month by max
19 out or parole;
- 20 (12) The number of individuals who applied for reduction of
21 minimum inclusive of approval or denial by



jurisdiction and month; the number of parole
revocation hearings approved or denied per month; and
the number of individuals for whom a reentry plan is
filed and the number of individuals who exit jail or
prison with a reentry plan;

(13) The total number of pretrial detainees and the number
of pretrial detainees admitted each month by type of
crime, bail amount, risk assessed, gender, race, and
age;

(14) The number of pretrial detainees released or
discharged each month and the reason for the release
or discharge by type of crime, bail amount, risk
assessed, gender, race, and age;

(15) The average length of stay for pretrial detainees by
reason for release or discharge, type of crime, bail
amount, risk assessed, gender, race, and age;

(16) The number of pretrial detainees held on cash bail by
type of crime, bail amount, risk assessed, gender,
race, and age;



1 (17) The average amount of time for completing and
2 verifying pretrial risk assessment by type of crime,
3 bail amount, risk assessed, gender, race, and age; and
4 (18) The number of pretrial detainees readmitted by reason
5 for release, reason for readmission, type of crime,
6 bail amount, risk assessed, gender, race, and age.
7 (d) The department shall post the reports electronically
8 on the department's website in a timely manner."

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Inmate Rehabilitation; Reentry System; Performance Indicators

Description:

Requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2858
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B.
No. 2858, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose and intent of this measure is to improve the
efficacy of the State's corrections program.

Specifically, the measure:

- (1) Requires the Department of Public Safety to establish
key performance indicators or measures, to be
incorporated in reports that evaluate the department's
efforts to improve offender reentry and rehabilitation;
and
- (2) Combines multiple specified annual reports of the
Department of Public Safety into one consolidated annual
report to the Legislature.

Your Committee received written comments in support of this
measure from the Department of Public Safety; the Office of
Hawaiian Affairs; 808RAN; Aloha Light Team; American Civil
Liberties Union of Hawaii; Community Alliance on Prisons; Hawaii
Justice Coalition; Ho`omanapono Political Action Committee; OCC
Legislative Priorities Committee, Democratic Party of Hawaii;



Young Progressives Demanding Action - Hawaii; and seven individuals.

Your Committee finds that Act 8, First Special Session Laws of Hawaii 2007, enacted the Community Safety Act, which established a comprehensive offender reentry system within the Department of Public Safety. Your Committee believes that this measure will help to ensure the effectiveness and make improvements to the Department's rehabilitation and reentry programs by requiring annual reports on specific program indicators. Your Committee also finds that this measure facilitates administrative efficiency by consolidating a number of the Department's reporting requirements into one annual report.

Your Committee has amended this measure by:

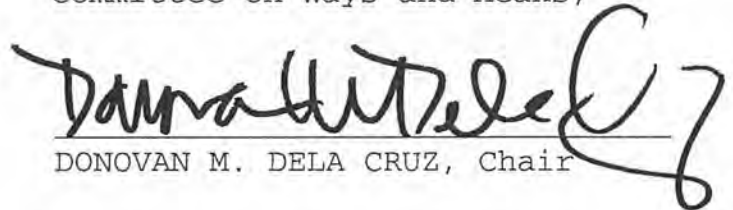
- (1) Inserting language to clarify that Act 144, Session Laws of Hawaii 2007, section 4, was codified as section 353C-2(b);
- (2) Deleting references to two annual reports that are no longer required to be created under existing law;
- (3) Inserting language to clarify that if any of the cited reporting requirements is repealed or terminated, the consolidated report shall continue to be produced with the remaining reporting requirements;
- (4) Clarifying that the Department of Public Safety shall report on key performance indicators on a fiscal year basis;
- (5) Deleting redundant language related to the posting of reports of key performance indicators on the Department of Public Safety's website;
- (6) Making conforming amendments to the laws that establish the individual annual reports that are to be consolidated by this measure;
- (7) Changing the effective date to July 1, 2050, to facilitate further discussion on the measure; and



- (8) Making technical nonsubstantive changes for purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2858, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,


DONOVAN M. DELA CRUZ, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB2858, SD1	Committee Referral: PSM, WAM	Date: 2/23/18
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____		
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>		
Members	Aye	Aye (WR)
DELA CRUZ, Donovan M. (C)	X	
KEITH-AGARAN, Gilbert S.C. (VC)	X	
ENGLISH, J. Kalani	X	
GALUTERIA, Brickwood	X	
HARIMOTO, Breene	X	
INOUE, Lorraine R.	X	
KAHELE, Kaiali'i		X
KIDANI, Michelle N.	X	
RIVIERE, Gil	X	
SHIMABUKURO, Maile S.L.		X
WAKAI, Glenn	X	
TOTAL	9	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature: 		
Distribution:	Original File with Committee Report	Yellow Clerk's Office
	Pink Drafting Agency	Goldenrod Committee File Copy

*Only one measure per Record of Votes

‘Aha Kenekoa ‘Aha‘ōlelo Iwakāluakumamāiwa
THE SENATE
OF THE
TWENTY-NINTH LEGISLATURE
Moku‘āina ‘O Hawai‘i
STATE OF HAWAII
‘Ākoakoa Kūmau MH 2018
REGULAR SESSION OF 2018

Lā ‘Iwakāluakumamālima
TWENTY-FIFTH DAY

6 Malaki 2018 - Po‘alua - Hola 9:30 A.M.
MARCH 6, 2018-TUESDAY-9:30 O'CLOCK A.M.

Papahana O Ka Lā
ORDER OF BUSINESS

Kāhea Papainoa
ROLL CALL

‘Āpono Mo‘olelo O Ka Puke Hālāwai
APPROVAL OF THE JOURNAL

Ho‘olauna Mea Kipa
INTRODUCTIONS

Ho‘oka‘a‘ike Mai Ke Kia‘āina
MESSAGES FROM THE GOVERNOR: No. 11

<u>MEASURE</u>	<u>TITLE</u>	<u>REFERRAL</u>
<u>G.M. No. 11</u>	Letter dated March 2, 2018, transmitting proposed changes to the FY 19 Executive Supplemental Budget for the Departments of Accounting and General Services; Business Economic Development and Tourism; Education; Hawaiian Home Lands; Human Services; Land and Natural Resources; Taxation; and Transportation.	FILE

Stand. Com. Rep. No. 2711

Prior Versions/Status & Testimony

S.B. No. 2340, S.D. 2

"RELATING TO HEALTH INSURANCE." -
(WAM)

(Health Insurance; Extended Coverage;
Preexisting Conditions; Nondiscrimination)

Stand. Com. Rep. No. 2712

Prior Versions/Status & Testimony

S.B. No. 2602, S.D. 1

"RELATING TO PROCUREMENT." -
(WAM)

(State Procurement Policy Board; Compliance
Examinations)

Stand. Com. Rep. No. 2714

Prior Versions/Status & Testimony

S.B. No. 2858, S.D. 2

"RELATING TO PUBLIC SAFETY." -
(WAM)

(Inmate Rehabilitation; Reentry System;
Performance Indicators)

Stand. Com. Rep. No. 2715

Prior Versions/Status & Testimony

S.B. No. 2366, S.D. 2

"RELATING TO COLLECTIVE
BARGAINING." - (WAM)

(Collective Bargaining; Labor Relations
Board; Delivery of Decisions and Orders;
Notice Requirements; Appropriation)

Stand. Com. Rep. No. 2716

Prior Versions/Status & Testimony

S.B. No. 2381, S.D. 2

"RELATING TO SCHOOL CLOSURES." -
(WAM)

(School Closure; Natural Disasters)

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Act 8, First Special
2 Session Laws of Hawaii 2007 (Act 8), enacted the Community
3 Safety Act, which is codified as chapter 353H, Hawaii Revised
4 Statutes. The Community Safety Act established a comprehensive
5 offender reentry system under the purview of the department of
6 public safety. Act 8 also required the department of public
7 safety to submit to the legislature annual reports through 2010
8 relating to the implementation, progress, and effectiveness of
9 the program components specified in Act 8.

10 The legislature notes that while the department of public
11 safety's annual reports required by Act 8 listed program
12 activities and statistics, they did not include information on
13 program outcomes. The legislature finds that performance
14 indicators are an effective way to track the progress of the
15 comprehensive reentry system and to reflect any change to the
16 department's approach to rehabilitation and reentry as mandated
17 by Act 8.



1 The purpose of this Act is to:

2 (1) Require the department of public safety to establish
3 key performance indicators or measures to be
4 incorporated in reports that evaluate the department's
5 efforts to improve offender reentry and
6 rehabilitation; and

7 (2) Consolidate into one report other specified reports of
8 the department of public safety.

9 SECTION 2. Chapter 353, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§353- Annual corrections program report. (a) No later
13 than twenty days prior to the convening of each regular session,
14 beginning with the regular session of 2019, the department shall
15 submit an annual corrections and program report, among other
16 reports that may be required from time to time, that
17 consolidates into one report the reports required by the
18 following laws:

19 (1) Act 144, Session Laws of Hawaii 2007, section 4,
20 codified as section 353C-2(b), relating to mental
21 health services for committed persons;



(2) Act 193, Session Laws of Hawaii 2010, relating to
cognitive restructuring;

(3) Section 353H- , relating to key performance
indicators; and

(4) Section 367D-8, relating to gender-responsive programs
for women;

provided that the repeal or expiration of any individual
reporting requirement described in paragraphs (1) through (4)
shall not repeal or otherwise affect the department's duty to
submit the consolidated report pursuant to this section with the
content required for the remaining reporting requirements that
have not been repealed or expired.

(b) The department shall post the report electronically on
the department's website in a timely manner."

SECTION 3. Chapter 353H, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§353H- Key performance indicators; reporting. (a) The
department shall develop key performance indicators that
accurately reflect progress toward specific goals, including:

(1) Reducing the rate of recidivism;



- 1 (2) Decreasing prisoner assaults on correctional staff;
2 (3) Reducing correctional staff turnover; and
3 (4) Improving departmental efficiencies in staffing,
4 budgeting, and data management and analysis.

5 (b) The department shall include in its annual report to
6 the legislature pursuant to section 353- a report section
7 that shall reference key performance indicators for the fiscal
8 year that ended before the report. The section shall track
9 rehabilitation and reentry efforts for individuals who are
10 prepared to exit the correctional system.

11 (c) The key performance indicators shall include:

- 12 (1) The total number of intakes, by month, including how
13 many intakes by facility in each month have been in
14 the system within the last fiscal year;
15 (2) Offender population counts by facility for each month
16 of the fiscal year;
17 (3) The number of individuals who have obtained a high
18 school diploma by successfully completing the general
19 educational development test or an equivalent
20 competency-based diploma;



- 1 (4) The number of individuals who received vocational
2 training or rehabilitation programming;
- 3 (5) The number of inmates assessed with substance abuse
4 problems, and the total number of inmates assessed
5 with no reported substance issues;
- 6 (6) Drug test failure rates of inmates while incarcerated;
- 7 (7) The number of individuals who have completed a drug
8 treatment program provided by the department;
- 9 (8) The number of individuals who have completed drug
10 education classes and out-patient treatment services;
- 11 (9) The cost per inmate per day, per facility;
- 12 (10) The median length of stay, excluding inmates who have
13 life or parole sentences;
- 14 (11) The total number of inmates released, by month by max
15 out or parole;
- 16 (12) The number of individuals who applied for reduction of
17 minimum inclusive of approval or denial by
18 jurisdiction and month, the number of parole
19 revocation hearings approved or denied per month, and
20 the number of individuals for whom a reentry plan is



1 filed and the number of individuals who exit jail or
2 prison with a reentry plan;

3 (13) The total number of pretrial detainees and the number
4 of pretrial detainees admitted each month by type of
5 crime, bail amount, risk assessed, gender, race, and
6 age;

7 (14) The number of pretrial detainees released or
8 discharged each month and the reason for the release
9 or discharge by type of crime, bail amount, risk
10 assessed, gender, race, and age;

11 (15) The average length of stay for pretrial detainees by
12 reason for release or discharge, type of crime, bail
13 amount, risk assessed, gender, race, and age;

14 (16) The number of pretrial detainees held on cash bail by
15 type of crime, bail amount, risk assessed, gender,
16 race, and age;

17 (17) The average amount of time for completing and
18 verifying pretrial risk assessment by type of crime,
19 bail amount, risk assessed, gender, race, and age; and



1 (18) The number of pretrial detainees readmitted by reason
2 for release, reason for readmission, type of crime,
3 bail amount, risk assessed, gender, race, and age."

4 SECTION 4. Section 353C-2, Hawaii Revised Statutes, is
5 amended by amending subsection (b) to read as follows:

6 "[+] (b) [+] The department of public safety shall include in
7 its annual report to the legislature [~~not later than twenty days~~
8 ~~prior to the commencement of the 2008 regular session, and every~~
9 ~~session thereafter, with]~~ pursuant to section 353- a report
10 section that includes its achievements, continuing improvements,
11 and ongoing problems in providing the appropriate mental health
12 care to committed persons under its jurisdiction."

13 SECTION 5. Section 367D-8, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§367D-8 Annual report. The department of public safety
16 and the office of youth services shall [~~submit an~~] include in
17 its annual report to the legislature [~~no later than twenty days~~
18 ~~before the convening of each regular session]~~ pursuant to
19 section 353- a report section on the following areas:
20 program descriptions, type and costs of contracts made, name of
21 the private agency awarded each contract, and the success of



1 each contract in meeting program specifications. The report
2 section shall detail the development of the comprehensive
3 continuum of care to address the gender-responsive needs of
4 Hawaii's female offenders and female adjudicated youth both in-
5 state and abroad. The report section shall also highlight the
6 existing gaps in the system and include recommendations for
7 resources needed to reach a seamless continuum of care and other
8 relevant information concerning the creation of a gender-
9 responsive environment for female offenders and female
10 adjudicated youth."

11 SECTION 6. Act 193, Session Laws of Hawaii 2010, is
12 amended by amending subsection (c) of section 2 to read as
13 follows:

14 "(c) The department of public safety shall [~~submit an~~]
15 include in its annual report to the legislature pursuant to
16 section 353- , Hawaii Revised Statutes, a report section on
17 these programs in Hawaii's correctional facilities [~~no later~~
18 ~~than twenty days prior to the convening of each regular session,~~
19 ~~beginning with the regular session of 2011]~~.

20 The [~~annual~~] report section shall include but not be
21 limited to:



- 1 (1) Descriptions of the various programs;
- 2 (2) Criteria for access/entry to the programs;
- 3 (3) The number of native Hawaiians who participated in the
- 4 programs;
- 5 (4) The number of non-Hawaiians who participated in the
- 6 programs;
- 7 (5) The number of native Hawaiians who completed the
- 8 programs;
- 9 (6) The number of non-Hawaiians who completed the
- 10 programs;
- 11 (7) The number of participants paroled/"maxed out";
- 12 (8) Recidivism after three months, six months, nine
- 13 months, and one year; and
- 14 (9) Successes and challenges in administering the
- 15 programs."

16 SECTION 7. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Inmate Rehabilitation; Reentry System; Performance Indicators

Description:

Requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports. Effective 7/1/2050. (SD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HOUSE OF REPRESENTATIVES
STATE OF HAWAII
TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2018

March 8, 2018

26th Day

ORDER OF BUSINESS

Invocation - Representative Nicole E. Lowen

1. Roll Call
2. Reading of the Journal
3. Messages from the Governor
4. Senate Communications

See Addendum.

ORDER OF THE DAY

5. Reports of Standing Committees

JUDICIARY

Stand. Comm. Rep. No. 1135-18

H.R. No. 21, H.D. 1

URGING THE HAWAII CHAPTER OF THE
AMERICAN JUDICATURE SOCIETY AND THE
HAWAII STATE BAR ASSOCIATION TO
ANALYZE AND ASSESS THE ROLE OF THE
JUDICIARY WITHIN THE CONSTITUTIONAL
FRAMEWORK OF GOVERNMENT IN THE
STATE OF HAWAII.

AS AMENDED, FOR ADOPTION

6. Introduction of Resolutions

H.R. Nos. 50 to 68
H.C.R. Nos. 64 to 83

7. Announcements

Committee Referral Sheet No. 34

Addendum

Received communications transmitting the following **371** Senate Bills – all having passed Third Reading in the Senate:

1. S.B. No. 36, S.D. 2	42. S.B. No. 2092, S.D. 1	84. S.B. No. 2296, S.D. 1
2. S.B. No. 48, S.D. 3	43. S.B. No. 2097, S.D. 1	85. S.B. No. 2298, S.D. 2
3. S.B. No. 80, S.D. 2	44. S.B. No. 2100, S.D. 2	86. S.B. No. 2299, S.D. 2
4. S.B. No. 101, S.D. 1	45. S.B. No. 2108, S.D. 1	87. S.B. No. 2304, S.D. 2
5. S.B. No. 192, S.D. 1	46. S.B. No. 2110, S.D. 2	88. S.B. No. 2305, S.D. 1
6. S.B. No. 208, S.D. 2	47. S.B. No. 2111, S.D. 1	89. S.B. No. 2306, S.D. 1
7. S.B. No. 222, S.D. 2	48. S.B. No. 2113, S.D. 2	90. S.B. No. 2312, S.D. 2
8. S.B. No. 229, S.D. 1	49. S.B. No. 2114, S.D. 1	91. S.B. No. 2316
9. S.B. No. 270, S.D. 1	50. S.B. No. 2116, S.D. 1	92. S.B. No. 2319, S.D. 2
10. S.B. No. 318, S.D. 2	51. S.B. No. 2124, S.D. 1	93. S.B. No. 2320, S.D. 2
11. S.B. No. 351, S.D. 2	52. S.B. No. 2125, S.D. 2	94. S.B. No. 2328, S.D. 2
12. S.B. No. 481, S.D. 2	53. S.B. No. 2126, S.D. 1	95. S.B. No. 2329, S.D. 2
13. S.B. No. 508, S.D. 1	54. S.B. No. 2134, S.D. 2	96. S.B. No. 2331, S.D. 2
14. S.B. No. 641, S.D. 1	55. S.B. No. 2149, S.D. 2	97. S.B. No. 2333, S.D. 2
15. S.B. No. 738, S.D. 1	56. S.B. No. 2150, S.D. 2	98. S.B. No. 2334, S.D. 2
16. S.B. No. 757, S.D. 2	57. S.B. No. 2168, S.D. 1	99. S.B. No. 2337, S.D. 1
17. S.B. No. 815, S.D. 2	58. S.B. No. 2172, S.D. 2	100. S.B. No. 2339, S.D. 1
18. S.B. No. 1208, S.D. 2	59. S.B. No. 2173, S.D. 1	101. S.B. No. 2340, S.D. 2
19. S.B. No. 1235, S.D. 2	60. S.B. No. 2177, S.D. 2	102. S.B. No. 2343, S.D. 2
20. S.B. No. 1293, S.D. 2	61. S.B. No. 2183, S.D. 1	103. S.B. No. 2346, S.D. 2
21. S.B. No. 2027, S.D. 2	62. S.B. No. 2184, S.D. 1	104. S.B. No. 2351, S.D. 1
22. S.B. No. 2046, S.D. 1	63. S.B. No. 2186, S.D. 1	105. S.B. No. 2360
23. S.B. No. 2049, S.D. 1	64. S.B. No. 2189, S.D. 1	106. S.B. No. 2361, S.D. 2
24. S.B. No. 2050, S.D. 2	65. S.B. No. 2196	107. S.B. No. 2363, S.D. 2
25. S.B. No. 2051, S.D. 1	66. S.B. No. 2199, S.D. 1	108. S.B. No. 2364, S.D. 2
26. S.B. No. 2056, S.D. 2	67. S.B. No. 2204, S.D. 1	109. S.B. No. 2366, S.D. 2
27. S.B. No. 2059, S.D. 1	68. S.B. No. 2205, S.D. 1	110. S.B. No. 2367, S.D. 2
28. S.B. No. 2060, S.D. 2	69. S.B. No. 2211, S.D. 2	111. S.B. No. 2368, S.D. 2
29. S.B. No. 2069, S.D. 1	70. S.B. No. 2224, S.D. 2	112. S.B. No. 2373, S.D. 1
30. S.B. No. 2070, S.D. 2	71. S.B. No. 2228, S.D. 1	113. S.B. No. 2374, S.D. 1
31. S.B. No. 2073, S.D. 1	72. S.B. No. 2231, S.D. 2	114. S.B. No. 2375, S.D. 2
32. S.B. No. 2074, S.D. 1	73. S.B. No. 2237, S.D. 2	115. S.B. No. 2381, S.D. 2
33. S.B. No. 2075, S.D. 1	74. S.B. No. 2239, S.D. 2	116. S.B. No. 2383, S.D. 2
34. S.B. No. 2077, S.D. 1	75. S.B. No. 2242, S.D. 2	117. S.B. No. 2384
35. S.B. No. 2078, S.D. 1	76. S.B. No. 2243, S.D. 1	118. S.B. No. 2387, S.D. 2
36. S.B. No. 2079, S.D. 2	77. S.B. No. 2247, S.D. 1	119. S.B. No. 2393, S.D. 1
37. S.B. No. 2083, S.D. 1	78. S.B. No. 2256, S.D. 1	120. S.B. No. 2396, S.D. 2
38. S.B. No. 2084, S.D. 1	79. S.B. No. 2257, S.D. 1	121. S.B. No. 2398, S.D. 2
39. S.B. No. 2085, S.D. 2	80. S.B. No. 2276, S.D. 1	122. S.B. No. 2399, S.D. 2
40. S.B. No. 2087, S.D. 2	81. S.B. No. 2278, S.D. 2	123. S.B. No. 2401, S.D. 2
41. S.B. No. 2089, S.D. 1	82. S.B. No. 2290, S.D. 2	124. S.B. No. 2402, S.D. 2
	83. S.B. No. 2293, S.D. 2	125. S.B. No. 2407, S.D. 1

126.	S.B. No. 2415, S.D. 1	172.	S.B. No. 2574	218.	S.B. No. 2693, S.D. 1
127.	S.B. No. 2416, S.D. 2	173.	S.B. No. 2576, S.D. 2	219.	S.B. No. 2703, S.D. 1
128.	S.B. No. 2424, S.D. 2	174.	S.B. No. 2580, S.D. 1	220.	S.B. No. 2704, S.D. 2
129.	S.B. No. 2427, S.D. 2	175.	S.B. No. 2581, S.D. 1	221.	S.B. No. 2705, S.D. 2
130.	S.B. No. 2428, S.D. 1	176.	S.B. No. 2585, S.D. 2	222.	S.B. No. 2710, S.D. 1
131.	S.B. No. 2434, S.D. 1	177.	S.B. No. 2586, S.D. 2	223.	S.B. No. 2711, S.D. 1
132.	S.B. No. 2436, S.D. 2	178.	S.B. No. 2594, S.D. 2	224.	S.B. No. 2714, S.D. 1
133.	S.B. No. 2461, S.D. 1	179.	S.B. No. 2598, S.D. 2	225.	S.B. No. 2715
134.	S.B. No. 2472, S.D. 2	180.	S.B. No. 2600, S.D. 2	226.	S.B. No. 2717, S.D. 2
135.	S.B. No. 2474, S.D. 2	181.	S.B. No. 2601, S.D. 2	227.	S.B. No. 2719, S.D. 1
136.	S.B. No. 2476, S.D. 2	182.	S.B. No. 2602, S.D. 1	228.	S.B. No. 2734, S.D. 2
137.	S.B. No. 2479, S.D. 2	183.	S.B. No. 2603, S.D. 2	229.	S.B. No. 2735, S.D. 2
138.	S.B. No. 2488, S.D. 2	184.	S.B. No. 2604, S.D. 2	230.	S.B. No. 2738, S.D. 1
139.	S.B. No. 2489, S.D. 2	185.	S.B. No. 2609, S.D. 1	231.	S.B. No. 2740, S.D. 1
140.	S.B. No. 2490, S.D. 1	186.	S.B. No. 2610, S.D. 1	232.	S.B. No. 2742, S.D. 1
141.	S.B. No. 2491, S.D. 2	187.	S.B. No. 2612, S.D. 1	233.	S.B. No. 2744, S.D. 2
142.	S.B. No. 2493, S.D. 2	188.	S.B. No. 2614, S.D. 2	234.	S.B. No. 2746, S.D. 1
143.	S.B. No. 2494, S.D. 2	189.	S.B. No. 2619, S.D. 2	235.	S.B. No. 2747, S.D. 2
144.	S.B. No. 2496, S.D. 1	190.	S.B. No. 2620, S.D. 1	236.	S.B. No. 2748, S.D. 2
145.	S.B. No. 2497, S.D. 1	191.	S.B. No. 2638, S.D. 1	237.	S.B. No. 2749, S.D. 2
146.	S.B. No. 2498, S.D. 2	192.	S.B. No. 2643, S.D. 1	238.	S.B. No. 2751, S.D. 2
147.	S.B. No. 2501, S.D. 2	193.	S.B. No. 2644, S.D. 2	239.	S.B. No. 2752, S.D. 2
148.	S.B. No. 2504, S.D. 2	194.	S.B. No. 2645, S.D. 2	240.	S.B. No. 2753
149.	S.B. No. 2507, S.D. 2	195.	S.B. No. 2646, S.D. 1	241.	S.B. No. 2756, S.D. 1
150.	S.B. No. 2508, S.D. 1	196.	S.B. No. 2648, S.D. 2	242.	S.B. No. 2757, S.D. 2
151.	S.B. No. 2511, S.D. 2	197.	S.B. No. 2650, S.D. 2	243.	S.B. No. 2758, S.D. 2
152.	S.B. No. 2514, S.D. 1	198.	S.B. No. 2653, S.D. 1	244.	S.B. No. 2761, S.D. 2
153.	S.B. No. 2515, S.D. 2	199.	S.B. No. 2654, S.D. 2	245.	S.B. No. 2764, S.D. 2
154.	S.B. No. 2520, S.D. 1	200.	S.B. No. 2655, S.D. 2	246.	S.B. No. 2765, S.D. 1
155.	S.B. No. 2521, S.D. 1	201.	S.B. No. 2656, S.D. 2	247.	S.B. No. 2766, S.D. 2
156.	S.B. No. 2522, S.D. 1	202.	S.B. No. 2658, S.D. 1	248.	S.B. No. 2767, S.D. 2
157.	S.B. No. 2523, S.D. 1	203.	S.B. No. 2660	249.	S.B. No. 2770, S.D. 1
158.	S.B. No. 2524, S.D. 1	204.	S.B. No. 2661, S.D. 2	250.	S.B. No. 2773, S.D. 2
159.	S.B. No. 2525, S.D. 2	205.	S.B. No. 2662, S.D. 2	251.	S.B. No. 2774, S.D. 1
160.	S.B. No. 2531, S.D. 1	206.	S.B. No. 2663, S.D. 2	252.	S.B. No. 2777, S.D. 1
161.	S.B. No. 2549, S.D. 1	207.	S.B. No. 2664, S.D. 1	253.	S.B. No. 2778, S.D. 1
162.	S.B. No. 2556, S.D. 1	208.	S.B. No. 2665, S.D. 1	254.	S.B. No. 2779, S.D. 2
163.	S.B. No. 2559, S.D. 2	209.	S.B. No. 2666, S.D. 2	255.	S.B. No. 2782, S.D. 1
164.	S.B. No. 2561, S.D. 2	210.	S.B. No. 2667, S.D. 1	256.	S.B. No. 2784, S.D. 2
165.	S.B. No. 2563, S.D. 1	211.	S.B. No. 2668, S.D. 1	257.	S.B. No. 2786, S.D. 2
166.	S.B. No. 2565, S.D. 2	212.	S.B. No. 2671, S.D. 2	258.	S.B. No. 2788, S.D. 2
167.	S.B. No. 2567, S.D. 2	213.	S.B. No. 2672, S.D. 1	259.	S.B. No. 2790, S.D. 2
168.	S.B. No. 2569, S.D. 1	214.	S.B. No. 2674, S.D. 1	260.	S.B. No. 2791, S.D. 2
169.	S.B. No. 2571, S.D. 2	215.	S.B. No. 2675, S.D. 1	261.	S.B. No. 2792, S.D. 2
170.	S.B. No. 2572, S.D. 2	216.	S.B. No. 2676, S.D. 1	262.	S.B. No. 2793, S.D. 2
171.	S.B. No. 2573, S.D. 1	217.	S.B. No. 2677, S.D. 2	263.	S.B. No. 2798, S.D. 2

264.	S.B. No. 2799, S.D. 1	300.	S.B. No. 2897, S.D. 2	336.	S.B. No. 3006, S.D. 2
265.	S.B. No. 2800, S.D. 2	301.	S.B. No. 2902, S.D. 2	337.	S.B. No. 3008, S.D. 2
266.	S.B. No. 2801, S.D. 2	302.	S.B. No. 2903, S.D. 1	338.	S.B. No. 3014, S.D. 1
267.	S.B. No. 2803, S.D. 2	303.	S.B. No. 2904, S.D. 1	339.	S.B. No. 3023, S.D. 2
268.	S.B. No. 2805	304.	S.B. No. 2905, S.D. 2	340.	S.B. No. 3024, S.D. 2
269.	S.B. No. 2811, S.D. 1	305.	S.B. No. 2906, S.D. 1	341.	S.B. No. 3025, S.D. 1
270.	S.B. No. 2812, S.D. 1	306.	S.B. No. 2909, S.D. 2	342.	S.B. No. 3027, S.D. 2
271.	S.B. No. 2817, S.D. 1	307.	S.B. No. 2910, S.D. 2	343.	S.B. No. 3028, S.D. 1
272.	S.B. No. 2819, S.D. 1	308.	S.B. No. 2911, S.D. 2	344.	S.B. No. 3029, S.D. 1
273.	S.B. No. 2820, S.D. 1	309.	S.B. No. 2913, S.D. 1	345.	S.B. No. 3030, S.D. 1
274.	S.B. No. 2821, S.D. 1	310.	S.B. No. 2914, S.D. 1	346.	S.B. No. 3031, S.D. 2
275.	S.B. No. 2822, S.D. 1	311.	S.B. No. 2919, S.D. 2	347.	S.B. No. 3033, S.D. 1
276.	S.B. No. 2828, S.D. 2	312.	S.B. No. 2922, S.D. 1	348.	S.B. No. 3034, S.D. 2
277.	S.B. No. 2831, S.D. 2	313.	S.B. No. 2924, S.D. 2	349.	S.B. No. 3037, S.D. 1
278.	S.B. No. 2832, S.D. 2	314.	S.B. No. 2925, S.D. 1	350.	S.B. No. 3038, S.D. 2
279.	S.B. No. 2833, S.D. 1	315.	S.B. No. 2926, S.D. 1	351.	S.B. No. 3044, S.D. 2
280.	S.B. No. 2839, S.D. 2	316.	S.B. No. 2928, S.D. 2	352.	S.B. No. 3048, S.D. 2
281.	S.B. No. 2843, S.D. 1	317.	S.B. No. 2930, S.D. 2	353.	S.B. No. 3049, S.D. 1
282.	S.B. No. 2845, S.D. 2	318.	S.B. No. 2938, S.D. 1	354.	S.B. No. 3057, S.D. 1
283.	S.B. No. 2846, S.D. 2	319.	S.B. No. 2939, S.D. 2	355.	S.B. No. 3058, S.D. 2
284.	S.B. No. 2848, S.D. 1	320.	S.B. No. 2943, S.D. 2	356.	S.B. No. 3064, S.D. 1
285.	S.B. No. 2849, S.D. 1	321.	S.B. No. 2951, S.D. 1	357.	S.B. No. 3068, S.D. 2
286.	S.B. No. 2851, S.D. 1	322.	S.B. No. 2955, S.D. 2	358.	S.B. No. 3070, S.D. 2
287.	S.B. No. 2854, S.D. 1	323.	S.B. No. 2965, S.D. 1	359.	S.B. No. 3077, S.D. 2
288.	S.B. No. 2858, S.D. 2	324.	S.B. No. 2968, S.D. 1	360.	S.B. No. 3079, S.D. 1
289.	S.B. No. 2861, S.D. 2	325.	S.B. No. 2969, S.D. 2	361.	S.B. No. 3082, S.D. 1
290.	S.B. No. 2863, S.D. 2	326.	S.B. No. 2972, S.D. 2	362.	S.B. No. 3083, S.D. 1
291.	S.B. No. 2865, S.D. 1	327.	S.B. No. 2974, S.D. 2	363.	S.B. No. 3086, S.D. 1
292.	S.B. No. 2866, S.D. 1	328.	S.B. No. 2977, S.D. 2	364.	S.B. No. 3087, S.D. 2
293.	S.B. No. 2879, S.D. 2	329.	S.B. No. 2988, S.D. 2	365.	S.B. No. 3088, S.D. 2
294.	S.B. No. 2886, S.D. 1	330.	S.B. No. 2989, S.D. 2	366.	S.B. No. 3090, S.D. 2
295.	S.B. No. 2887, S.D. 1	331.	S.B. No. 2990, S.D. 2	367.	S.B. No. 3097, S.D. 2
296.	S.B. No. 2890, S.D. 2	332.	S.B. No. 2992, S.D. 1	368.	S.B. No. 3099, S.D. 2
297.	S.B. No. 2891, S.D. 1	333.	S.B. No. 2999, S.D. 1	369.	S.B. No. 3100, S.D. 1
298.	S.B. No. 2894, S.D. 2	334.	S.B. No. 3000, S.D. 2	370.	S.B. No. 3104, S.D. 2
299.	S.B. No. 2896, S.D. 1	335.	S.B. No. 3001, S.D. 2	371.	S.B. No. 3107, S.D. 1

OFFICE OF THE SPEAKER
TWENTY-NINTH STATE LEGISLATURE

COMMITTEE REFERRALS

NO. 36
26TH LEGISLATIVE DAY-MARCH 8, 2018

Committee Abbreviations:

AGR - Agriculture	LAB - Labor & Public Employment
CPC - Consumer Protection & Commerce	LMG - Legislative Management
EDB - Economic Development & Business	OMH - Ocean, Marine Resources, & Hawaiian Affairs
EDN - Education	PBS - Public Safety
EEP - Energy & Environmental Protection	TOU - Tourism
FIN - Finance	TRN - Transportation
HED - Higher Education	VMI - Veterans, Military, & International Affairs, & Culture and the Arts
HHS - Health & Human Services	WAL - Water & Land
HSG - Housing	
IAC - Intrastate Commerce	
JUD - Judiciary	

**Committee
REFERRAL**

SB2601, SD2

RELATING TO PROCUREMENT.

Requires procurement officers to complete periodic performance evaluations of certain contractors. Establishes factors to be included in any evaluation, consideration, or review of past performance, and ratings standards for those factors. Requires past performance to be factored into future bid selection of contractors for certain contracts. Requires past performance to be considered in all sole source procurement and any competitive sealed contracts that exceeds the small purchase threshold. Appropriates funds. Effective 7/1/2050. (SD2)

LAB, FIN

Committee
REFERRAL

<u>SB2851, SD1</u>	RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSES OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS. Amends or repeals various provisions of the Hawaii Revised Statutes and the Session Laws of Hawaii for the purposes of correcting errors and references, clarifying language, and deleting obsolete or unnecessary provisions. Effective 7/1/2035. (SD1)	JUD
<u>SB2854, SD1</u>	RELATING TO MOPEDS. Establishes a fine not to exceed \$100 for mopeds owners who fail to comply with moped registration requirements. Effective 7/1/2035. (SD1)	TRN, JUD
<u>SB2858, SD2</u>	RELATING TO PUBLIC SAFETY. Requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports. Effective 7/1/2050. (SD2)	PBS, FIN
<u>SB2861, SD2</u>	RELATING TO PUBLIC SAFETY. Requires the Department of Public Safety to establish performance indicators. Requires semi-annual reports of the established performance indicators, criminal offender treatment programs, and programs established pursuant to the Community Safety Act. Effective 7/1/2050. (SD2)	PBS, FIN
<u>SB2863, SD2</u>	RELATING TO THE PENAL CODE. Establishes the offense of criminal property damage to property of another holding historical significance to Native Hawaiians. Defines "property of another holding historical significance to Native Hawaiians" as a tangible object, structure, or real property that has been determined to be of cultural or historical significance to Native Hawaiians as determined by experts in traditional Native Hawaiian customs and practices in the district where the property is located. Effective 7/1/2050. (SD2)	OMH, JUD, FIN



Aloha chair nishihara, vice chair wakai, and members of the Committee on Public Safety, Intergovernmental, and Military Affairs,

The Young Progressives Demanding Action – Hawai‘i **strongly support** both SB 2858 & SB 2861. Both of these bills are steps toward accountability and transparency when dealing with corrections and the criminal justice system. People who are committed to this system are stripped of certain rights because they have been deemed to have violated some part of the social contract. They are also locked away from sight and mind of the public, physically, emotionally and mentally cut off from their loved ones and advocates. As a result, they are particularly vulnerable to civil and human rights violations.

The overall direction this committee is leading the State of Hawai‘i when it comes to criminal justice reform is good. Many of the bills that have been introduced this session give us hope. In particular, bills aimed at assessing and reforming pretrial and effective incarceration practices must be supported. However, without specific data, task forces currently looking at both avenues of reform will continue to be limited in their ability to formulate good recommendations on policy for this committee to act on.

Even basic information, like the demographics of our jail and prison population and the cost of incarceration, are only available upon request and are difficult to acquire from the department. More and more states are adopting data-driven approaches to incarceration to implement truly best practices in reducing rates of recidivism, taxpayer costs, and to improve the safety of their communities. And their progress has been well-documented now. Hawai‘i should join this “smart justice” approach and implement a comprehensive data collection system. This information must be made publicly available. These bills will help the state to develop sound policies that improve our communities, improve safety, and promote justice, and we ask that you support both and pass them through committee today.

Mahalo,

Will Caron

Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawai'i

SB-2858

Submitted on: 1/28/2018 7:27:51 PM

Testimony for PSM on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Life of the Land	Support	No

Comments:

Please pass this impotant bill on metrics.

Mahalo

Henry Curtis

Executive Director

Life of the Land

SB-2858

Submitted on: 1/29/2018 12:19:14 PM

Testimony for PSM on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi		Support	No

Comments:

Aloha Senators Nishihara (Chair), Wakai (Vice Chair) and Committee members

Thank you for hearing SB2858. This bill is sorely needed and the intent is good, but i'm not quite sure of some aspects of the bill.

I will be attending the meeting.

Mahalo for the opportunity to submit my testimony.

Aloha and a hui hou,

e. ileina funakoshi

LATE

THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.B. NO. 2858

JAN 24 2018

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Act 8, First Special Session Laws of Hawaii 2007 (Act 8), enacted the Community Safety Act, which was codified as chapter 353H, Hawaii Revised Statutes. The Community Safety Act established a comprehensive offender reentry system under the purview of the department of public safety. Act 8 also required the department of public safety to submit to the legislature annual reports through 2010 relating to the implementation, progress, and effectiveness of the program components specified in Act 8.

While the department of public safety's annual report lists program activities and statistics, it does not include information on program outcomes. The legislature finds that performance indicators are an effective way to track the progress of the comprehensive reentry system and to reflect any change to the department's approach to rehabilitation and reentry as mandated by Act 8.

The purpose of this Act is to:



LATE**S.B. NO. 2858**

(1) Require the department of public safety to establish key performance indicators or measures to be incorporated in reports that evaluate the department's efforts to improve offender reentry and rehabilitation; and

(2) Consolidate into one report other specified reports of the department of public safety.

SECTION 2. Chapter 353, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§353- Annual corrections' and program report. (a) No later than twenty days prior to the convening of each regular session, beginning with the regular session of 2019, the department shall submit an annual corrections and program report, among other reports that may be required from time to time, that consolidates into one report the reports required by the following laws:

(1) Act 144, Session Laws of Hawaii 2007, section 4, relating to mental health services for committed persons;



LATE**S.B. NO. 2858**

1 (2) Act 213, Session Laws of Hawaii 2007, section 105,
2 relating to mental health services at certain
3 correctional facilities;

4 (3) Act 240, Session Laws of Hawaii 2008, section 5,
5 relating to children of incarcerated persons;

6 (4) Act 193, Session Laws of Hawaii 2010, relating to
7 cognitive restructuring;

8 (5) Section 353H- , relating to key performance
9 indicators; and

10 (6) Section 367D-8, relating to gender-responsive programs
11 for women;

12 provided that the repeal or expiration of any individual
13 reporting requirement described in paragraphs (1) through (6)
14 shall not repeal or otherwise affect the department's duty to
15 submit the same report pursuant to this section.

16 (b) The department shall post the report electronically on
17 the department's website in a timely manner."

18 SECTION 3. Chapter 353H, Hawaii Revised Statutes, is
19 amended by adding a new section to be appropriately designated
20 and to read as follows:



LATE**S.B. NO. 2858**

1 "§353H- Key performance indicators; reporting. (a)

2 The department shall develop key performance indicators that
3 accurately reflect progress toward specific goals, including:

4 (1) Reducing the rate of recidivism;

5 (2) Decreasing prisoner assaults on correctional staff;

6 (3) Reducing correctional staff turnover; and

7 (4) Improving departmental efficiencies in staffing,
8 budgeting, and data management and analysis.

9 (b) The department shall submit a report to the
10 legislature no later than twenty days prior to the convening of
11 each regular session, beginning with the regular session of
12 2019. Each report shall reference key performance indicators
13 for that period that track rehabilitation and reentry efforts
14 for individuals who are prepared to exit the correctional
15 system.

16 (c) The key performance indicators shall include:

17 (1) The total number of intakes, by month, including how
18 / by facility
18 many intakes in each month have been in the system
19 within the last year and the last five years;



LATE

S.B. NO. 2858

populations counts by facility for each month of the year.

- (2) Offender demographics, including gender, race, age,
crime type, and whether the offender was placed in
jail or prison;
- (3) The number of individuals who have obtained a high
school diploma by successfully completing the general
educational development test or an equivalent
competency-based diploma;
- (4) The number of individuals who received vocational
☐and/☐programming:
training or rehabilitation and the type of vocational
training or rehabilitation;
☐assessed
- (5) The number of inmates with substance abuse problems,
including the type of dependence or addiction, the
total number of inmates with substance abuse problems,
and the total number of inmates ☐assessed
with no reported
substance issues;
- (6) Drug test failure rates of inmates while incarcerated
and while on parole;
- (7) The number of individuals who have completed a drug
treatment program provided by the department;
- (8) The number of individuals who have completed
drug education classes and outpatient treatment services;
restorative circles;



SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY:

Clarence W. Fishburne
To
Roxley H. Bell
Will Geo

LATE

S.B. NO. 2858

Report Title:

Inmate Rehabilitation; Reentry System; Performance Indicators

Description:

Requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

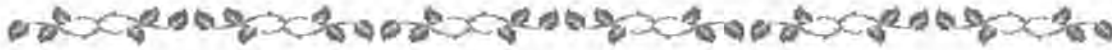


LATE

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY, INTERGOVERNMENTAL AND MILITARY AFFAIRS

Sen. Clarence Nishihara, Chair

Sen. Glenn Wakai, Vice Chair

Tuesday, January 30, 2018

1:15 pm

Room 229

STRONG SUPPORT SB 2858 - DATA

Aloha Chair Nishihara, Vice Chair Wakai and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB2858 requires the Department of Public Safety to establish key performance indicators for inmate reentry system, reports, using key performance indicators, to be provided to the legislature, and creates the annual corrections and program report as a consolidated report of other annual reports.

Community Alliance on Prisons is in strong support of this measure and any bill or resolution that mandates transparency and open access to data.

The department does file lots of reports every year with the legislature. Please mandate that these are not the usual "cut and paste" say-nothing reports for which this department is known. Open access means that the community has quick access to raw data.

The only way for a department to improve its services is to track how they are doing. If the legislature and the community do not have access to data, then we have the current situation - a dysfunctional department that operates in secret with zero accountability.

Community Alliance on Prisons urges the committee to support this measure.

"Integrity is the lifeblood of democracy, Deceit is a poison in its veins."

Edward Kennedy



LATE

Committee: Committee on Public Safety, Intergovernmental, and Military Affairs
Hearing Date/Time: Tuesday, January 30, 1:15 p.m.
Place: Conference Room 229

Re: Testimony of the ACLU of Hawai'i in support of S.B. 2861 and S.B. 2858,
Relating to Establishing Key Performance Indicators

Dear Chair Nishihara, Vice Chair Wakai, and Members of the Committee on Public Safety, Intergovernmental, and Military Affairs:

The American Civil Liberties Union of Hawai'i writes in **strong support** of S.B. 2861 and S.B. 2858, which require the Department of Public Safety ("**DPS**") to, among other things, develop performance measures to track progress in improving recidivism rates, decreasing prisoner assaults, reducing staff turnover, and improving efficiencies. We support these measures, because clear performance metrics are important not only to public safety but also to transparency, efficiency, and accountability.

S.B. 2861 and S.B. 2858 also require that DPS develop key performance indicators, including various data points relating to intakes, offender demographics, length of stay, etc. One of the barriers to meaningful and evidence-based criminal and correctional reform in Hawai'i is lack of relevant data. Therefore, we respectfully request that your Committee amend both bills to clearly require DPS to publish all data for all performance measures and all key performance indicators on at least a quarterly basis. We also request that your Committee amend both bills to require DPS to include the following key performance indicators concerning pretrial detention:

(1) number of pretrial detainees by type of crime, bail amount, risk assessed, gender, race, and age, (2) number of pretrial detainees admitted each month by type of crime, bail amount, risk assessed, gender, race, and age, (3) number of pretrial detainees released or discharged each month and reason for release or discharge by type of crime, bail amount, risk assessed, gender, race, and age, (4) average length of stay for pretrial detainees by reason for release/discharge, type of crime, amount, risk assessed, gender, race, and age, (5) number of pretrial detainees held on cash bail by type of crime, bail amount, risk assessed, gender, race, and age, (6) average length of time for completing and verifying pretrial risk assessment by type of crime, amount, risk assessed, gender, race, and age, and (7) number of pretrial detainees readmitted by reason for release, reason for readmission, type of crime, bail amount, risk assessed, gender, race, and age. This data will allow DPS, the Legislature, the Judiciary, and the public to better assess Hawai'i's pretrial detention system as we all weigh important decisions about the future of pretrial

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: (808) 522-5900
F: (808) 522-5909
E: office@acluhawaii.org
www.acluhawaii.org

LATE


January 30, 2018

Page 2 of 2

detention in Hawai'i and the Oahu Community Correctional Center, which currently holds about 559 pretrial detainees, including 74 detainees accused only of a misdemeanor.

Thank you for the opportunity to testify.

Sincerely,



Mateo Caballero
Legal Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

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E: office@acluhawaii.org
www.acluhawaii.org

LATE

SB-2858

Submitted on: 1/30/2018 11:15:08 AM

Testimony for PSM on 1/30/2018 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carrie Ann Shirota		Support	No

Comments:

Hawai'i Justice Coalition supports this bill as it would increase two important oversight goals: increasing transparency and accountability within the Department of Public Safety - by requiring PSD to develop performance measures to track process in decreasing prisoner assaults, reducing staff turnover, improving recidivism rates.

In addition, this bill would require PSD to track meaningful data that is essential to enacting comprehensive criminal justice reform. Other jurisdictions that have successful implemented Smart Justice policies consistently review data to measure success, and identify areas for improvement.

Please pass SB 2858.

Submitted on behalf of: Hawai'i Justice Coalition

SB-2858-SD-1

Submitted on: 2/17/2018 11:01:13 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Testifying for Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON WAYS AND MEANS

Senator Donovan DelaCruz, Chair

Senator Gil Keith-Agaran, Vice Chair

Friday, February 23, 2018

10:00 am

Room 211

SB 2858 SD1 - PERFORMANCE INDICATORS FOR REENTRY = SUPPORT

Aloha Chair DelaCruz, Vice Chair Keith-Agaran and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of all the people who have died in our facilities including, JESSICA FORTSON, JOEY O'MALLEY, DAISY KASITATI, ASHLEY GREY, and the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 2858 SD1 requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports. (SD1)

Community Alliance on Prisons is in strong support of this measure and any bill or resolution that mandates transparency and open access to data.

The department does file lots of reports every year with the legislature. This great bill consolidates the reports and instead requires reporting on specific programs and that they are gender-responsive, as well as specifics contained in Chapter 353H - Hawai'i's reentry law - The Community Safety Act. This requirement will ensure that the usual "cut and paste" reports will actually be useful documents for policymakers and the public. Open access means that policymakers and the community have quick access to raw data. The only way for a department to improve its services is to track how they are doing.

If the legislature and the community do not have access to data, then we have the current situation - a department that operates in secret with zero accountability. Community Alliance on Prisons urges the committee to support this measure.

"Integrity is the lifeblood of democracy, Deceit is a poison in its veins."

Edward Kennedy



Committee: Committee on Ways and Means
Hearing Date/Time: Friday, February 23, 10 a.m.
Place: Conference Room 211
Re: Testimony of the ACLU of Hawai'i in support of S.B. 2858, S.D. 1,
Relating to Establishing Key Performance Indicators

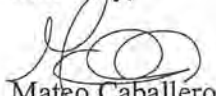
Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and Committee members:

The American Civil Liberties Union of Hawai'i writes in **strong support** of S.B. 2858, S.D. 1, which requires the Department of Public Safety ("DPS") to, among other things, develop performance measures to track progress in improving recidivism rates, decreasing prisoner assaults, reducing staff turnover, and improving efficiencies. We support these measures, because clear performance metrics are important not only to public safety but also to transparency, efficiency, and accountability.

S.B. 2858 also requires that DPS develop key performance indicators, including various data points relating to intakes, offender demographics, length of stay, and pretrial detention. Requiring DPS to provide data on these indicators is important because lack of data is one of the barriers to meaningful and evidence-based criminal and correctional reform in Hawai'i. Significantly, the pretrial detention data to be published under this bill will allow DPS, the Legislature, the Judiciary, and the public to better assess Hawai'i's pretrial detention system. This in turn is critical to the future of jails in Hawai'i, such as the Oahu Community Correctional Center, which currently holds about 576 pretrial detainees, including 88 **pretrial** detainees who have only been accused of a misdemeanor.

Thank you for the opportunity to testify.

Sincerely,


Mateo Caballero
Legal Director
ACLU of Hawai'i

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: (808) 522-5900
F: (808) 522-5909
E: office@acluhawaii.org
www.acluhawaii.org

February 23, 2018

Page 2 of 2

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: (808) 522-5900
F: (808) 522-5909
E: office@acluhawaii.org
www.acluhawaii.org

SB-2858-SD-1

Submitted on: 2/21/2018 10:04:10 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES

DEMOCRATIC PARTY OF HAWAII

THE COMMITTEE ON WAYS AND MEANS

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Friday, February 23, 2018

10:00 AM

Hawaii State Capitol, Conference Room 211

RE: Testimony in Support of SB2858 SD1 RELATING TO PUBLIC SAFETY

To the Honorable Donovan M. Dela Cruz, Chair; the Honorable Gilbert S.C. Keith-Agaran, Vice-Chair, and Members of the Committee on Ways and Means:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on Senate Bill No. 2858 SD1, relating to Inmate Rehabilitation; Reentry System; and Performance Indicators.

The OCC Legislative Priorities Committee is in favor of Senate Bill No. 2858 SD1 and support its passage.

Senate Bill No. 2858 SD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires the Department of Public Safety to establish key performance indicators for inmate reentry system; requires reports, using key performance indicators, to be provided to the legislature; and creates the annual corrections and program report as a consolidated report of other annual reports.

The DPH Platform states that "[w]e support restorative justice that repairs the harm caused by criminal behaviors and reintegrates the offenders as contributing members of society. Likewise we support opportunities for those who have been incarcerated to effect a smooth transition back into the community and make available health, educational, and other assistance programs needed to allow them to become productive and respected members of the community. We want the practice of private for-profit detention centers and prisons prohibited." (Platform of the DPH, P. 5, Lines 273-278 (2016)).

Given that Senate Bill No. 2858 SD1 requires the Department of Public Safety to establish key performance indicators for inmate reentry system; requires reports, using key performance indicators, to be provided to the legislature; and creates the annual corrections and program report as a consolidated report of other annual reports, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

SB-2858-SD-1

Submitted on: 2/22/2018 9:55:04 AM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

Strong support for SB1258.

Since i'm late in submitting my support. May i humbly ask the committee to approve SB2858 SD1 which is badly needed to help the inmates so they will not fail on their attempt to enter the "outside world."

SB-2858-SD-1

Submitted on: 2/22/2018 9:58:09 AM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raquel Curtis	Individual	Support	No

Comments:

SB-2858-SD-1

Submitted on: 2/22/2018 9:52:35 AM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

I am testifying in STRONG SUPPORT of SB2858 SD1 (Inmate Rehabilitation; Reentry System; Performance Indicators) as we must have detailed data in order to assess how the system is working and where improvements can be made. This type of data is necessary in order for the public and citizens of Hawaii to have TRANSPARENCY and access to how our taxpayer dollars are being utilized, our people under the care of the state are faring, and how department functions can be improved.

Mahalo-

Raelyn Reyno Yeomans

SB-2858-SD-1

Submitted on: 2/21/2018 9:55:53 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments:

I strongly support SB2858 that would require the Department of Public Safety to establish and report performance measures for pre-trial detainees, drug addition, mental health and effectiveness of pre-release efforts. This data has not been available to the public, although we pay for DPS operations. It is time for this secrecy to end. This data is needed by DPS itself, to improve its operations, as well as by the legislature and the public.

I urge you to pass SB2858 SD1 as is.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2858, SENATE DRAFT 1
RELATING TO PUBLIC SAFETY
AND
SENATE BILL 2861, SENATE DRAFT 1
RELATING TO PUBLIC SAFETY
by
Nolan P. Espinda, Director
Department of Public Safety



Senate Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Friday, February 23, 2018; 10:00 a.m.
State Capitol, Conference Room 211

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of Senate Bill (SB) 2858, Senate Draft (SD) 1 and Senate Bill (SB) 2861, Senate Draft (SD) 1 and offers the following comments.

The Department notes that because of the similarities between the two bills, the Committee may wish to combine and streamline the two measures to eliminate the substantial overlap.

The bills' main area of concern appears to be PSD's Reentry program. The Department fully recognizes this concern and agrees, as it is the most important program area aimed at successfully returning inmates to our communities to be law-abiding, productive citizens. In response to the Justice Reinvestment Initiative and learning from national best practices, PSD's Reentry Coordination Office (RCO) has gone through a massive overhaul over the past two years. After staffing up, it has been working intensively to build upon existing

programs to develop a comprehensive program that energizes facilities' staff to effectively deliver the necessary support and services to inmates as they transition back to our communities.

Given the current circumstances, scrutinizing the RCO with a battery of performance indicators may be premature at this time. There is simply insufficient data to be studied. The Department cannot agree more with the value of program evaluation, but believes it would be more effective if it is used as a diagnostic tool, with the goal of enhancing programs for the benefit of those it serves. PSD respectfully recommends that the Department's annual reporting to the Legislature include a more robust report on the Reentry program which describes program elements and presents performance indicators specific to each element, together with a section of recommended program enhancements, all towards the goal of continual improvement to benefit inmates and our communities.

PSD would also be interested in exploring the idea of consolidating, wherever possible, its reports to the Legislature. However, this would be a large internal undertaking involving many staff and data collection protocols. The Department also notes that the time required for extensive data collection takes staff away from performing their regular duties and would like to request that funds be appropriated to hire staff for the data and reporting functions.

Thank you for the opportunity to present this testimony.



SB2858 SD1
RELATING TO PUBLIC SAFETY
Senate Committee on Ways and Means

February 23, 2018

10:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2858 SD1, which would require the Department of Public Safety (PSD) to collect, aggregate, and publicly report data relating to key enumerated performance indicators. **This measure would promote important legislative and community oversight, and provide information that may be critical to the enactment of much-needed reforms to our criminal justice system.**

Decades of a traditional criminal justice approach have led to the highest prison population in Hawai‘i’s history. Between 1977 and 2008, the number of people incarcerated in Hawai‘i increased by more than 900 percent, between 1977 and today, our incarcerated population increased by 1,400 percent.¹ The Native Hawaiian community has been particularly impacted by this increase, making up 40% of our prison population today.² Moreover, this overrepresentation of Native Hawaiians in the criminal justice system indicates larger systemic issues, such as implicit bias and disparate treatment in interactions from arrest, to adjudication, to final release.³ **Accordingly, OHA has long advocated for criminal justice reform that would thoroughly examine and effectively implement evidence-based incarceration alternatives, that can improve public safety, effectively rehabilitate pa‘ahao, reduce recidivism, and save taxpayer dollars.**⁴

¹THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² In contrast, Native Hawaiians only represent 24% of the general public in Hawai‘i. *Id.* at 36.

³ OHA’s 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage noting that Native Hawaiians made up “24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population.” (at pg. 10) Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38.

⁴ The NHJTF recommended several options to address systemic issues resulting in overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several proposals from the 2011 Justice Reinvestment Initiative legislation that were not originally passed or implemented, investing in early intervention programs, increasing public defender funding, expanding implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu‘uhonua and bolstering reintegration programs and services to better prevent recidivism. *Id.* at 27-30.

The Native Hawaiian Justice Task Force, in its 2012 report, found that data collection, integration, and infrastructure needed to be improved at various levels of the criminal justice system.⁵ The Task Force noted that an analysis of additional control variables “would provide a richer understanding of why Native Hawaiians remain disproportionately represented in the criminal justice system.”⁶ Consistent with the Task Force’s report, this measure will help to provide robust and comprehensive data, which can inform the exploration, development, and implementation of policies and programs that meaningfully address the costly and growing impacts of our criminal justice system on Native Hawaiians and the larger community.

Therefore, OHA respectfully requests that the Committee PASS SB2858 SD1. Mahalo for the opportunity to testify on this measure.

⁵ OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012) at 8, *available at* http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

⁶ *Id.*



Committee on Ways and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Friday, February 23, 2018
10:00 A.M. in Room 211

LATE

RE: Support SB 2858, SD 1 Relating to Public Safety (Performance Measures)

Dear Chair Dela Cruz, Vice Chair Keith-Agaran and Committee Members:

Hawai'i Justice Coalition is a grassroots education and advocacy coalition comprised of organizations and individuals united in our work to reduce the number of people incarcerated in Hawai'i's jails and prisons. We seek to shift the state's spending priorities away from mass criminalization and incarceration towards rehabilitation, education, restorative justice, health and human services. We believe that comprehensive criminal justice reform makes fiscal sense, and builds safe and healthy communities.

When analyzing proposed criminal justice legislation, we implore policy makers to evaluate each bill from a systems thinking approach with two overarching principles in mind:

- Criminal justice policies, NOT crime rates, are the prime drivers of changes in jail and prison population.
- Other states have proven that it is possible to substantially reduce the incarcerated population, and save money, without compromising public safety.

States that have successfully reduced its incarcerated population consistently review data analysis and then discuss policy options. SB 2858 would require the Department of Public Safety to establish key performance indicators for the inmate reentry system. In addition, this bill would requires reports, using key performance indicators, to be provided to the legislature.

Hawai'i Justice Coalition supports this bill as it would increase two important oversight goals: increasing transparency and accountability within the Department of Public Safety. For these reasons, please pass SB2858, SD1!

Sincerely,
Carrie Ann Shirota, JD
Hawai'i Justice Coalition
www.hi.justice.org
cashirota808@gmail.com

LATE

SB-2858-SD-1

Submitted on: 2/22/2018 2:56:07 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Ka'imi Nicholson	Testifying for Aloha Light Team	Support	No

Comments:

It's vital to have data on program outcomes in order to design systems that best heal our troubled citizens & protect public safety. Mahalo for supporting rational & caring services for the well-being of all!

LATE

SB-2858-SD-1

Submitted on: 2/22/2018 5:29:03 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Heather Lusk	Individual	Support	No

Comments:

LATE

SB-2858-SD-1

Submitted on: 2/22/2018 12:38:17 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
chelsea pang	Individual	Support	No

Comments:

I support rehabilitation and checking methods to improve the process

SB-2858-SD-1

Submitted on: 2/22/2018 7:12:51 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

SB-2858-SD-1

Submitted on: 2/22/2018 11:04:50 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Sophia Mendoza	Testifying for 808RAN	Support	No

Comments:

I support this Bill; accountability is critical to our success! Our efforts to accomplish true reform must be documented, analyzed, researched and updated consistently.

Sophia Mendoza

LATE



Aloha Chair Dela Cruz and members of the Senate Ways and Means Committee,

The members of the Young Progressives Demanding Action – Hawai‘i **strongly support** both SB 2858 & SB 2861. Both of these bills are steps toward accountability and transparency when dealing with corrections and the criminal justice system. People who are committed to this system are stripped of certain rights because they have been deemed to have violated some part of the social contract. They are also locked away from sight and mind of the public, physically, emotionally and mentally cut off from their loved ones and advocates. As a result, they are particularly vulnerable to civil and human rights violations.

The overall direction this committee is leading the State of Hawai‘i when it comes to criminal justice reform is good. Many of the bills that have been introduced this session give us hope. In particular, bills aimed at assessing and reforming pretrial and effective incarceration practices must be supported. However, without specific data, task forces currently looking at both avenues of reform will continue to be limited in their ability to formulate good recommendations on policy for this committee to act on.

Even basic information, like the demographics of our jail and prison population and the cost of incarceration, are only available upon request and are difficult to acquire from the department. More and more states are adopting data-driven approaches to incarceration to implement truly best practices in reducing rates of recidivism, taxpayer costs, and to improve the safety of their communities. And their progress has been well-documented now. Hawai‘i should join this “smart justice” approach and implement a comprehensive data collection system. This information must be made publicly available. These bills will help the state to develop sound policies that improve our communities, improve safety, and promote justice, and we ask that you support both and pass them through committee today.

Mahalo,

Will Caron

Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawai‘i





STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 2858, SENATE DRAFT 2
RELATING TO PUBLIC SAFETY
AND
SENATE BILL 2861, SENATE DRAFT 2
RELATING TO PUBLIC SAFETY

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Public Safety
Representative Gregg Takayama, Chair
Representative Cedric Asuega Gate, Vice Chair

Thursday, March 15, 2018; 10:30 a.m.
State Capitol, Conference Room 312

Chair Takayama, Vice Chair Gates, and Members of the Committee:

The Department of Public Safety (PSD) **supports the intent** of Senate Bill (SB) 2858, Senate Draft (SD) 2 and Senate Bill (SB) 2861, Senate Draft (SD) 2 and offers the following comments.

The Department notes that because of the similarities between the two bills, the Committee may wish to combine and streamline the two measures to eliminate the substantial overlap.

The bills' main area of concern appears to be PSD's Reentry program. The Department fully recognizes this program, aimed at returning inmates to our communities to be law-abiding, productive citizens, to be its most important program area and has concentrated additional resources and efforts into increasing its success. In response to the Justice Reinvestment Initiative and learning from national best practices, PSD's Reentry Coordination Office (RCO)

has gone through a massive overhaul over the past two years. After staffing up, it has been working intensively to build upon existing programs to develop a comprehensive program that energizes facilities' staff to effectively deliver the necessary support and services to inmates as they transition back to our communities.

Given the current circumstances, scrutinizing the RCO with a battery of performance indicators may be premature at this time. There is simply insufficient data to be studied. The Department cannot agree more with the value of program evaluation, but believes it would be more effective if it is used as a diagnostic tool, with the goal of enhancing programs for the benefit of those it serves. PSD respectfully recommends that the Department's annual reporting to the Legislature include a more robust report on the Reentry program which describes program elements and presents performance indicators specific to each element, together with a section of recommended program enhancements, all towards the goal of continual improvement to benefit inmates and our communities.

PSD would also be interested in exploring the idea of consolidating, wherever possible, its reports to the Legislature. However, this would be a large internal undertaking involving many staff and data collection protocols. The Department also notes that the time required for extensive data collection takes staff away from performing their program duties and would like to request that funds be appropriated to hire staff to take on the additional data and reporting functions.

Thank you for the opportunity to present this testimony.



SB2858 SD2
RELATING TO PUBLIC SAFETY
House Committee on Public Safety

March 15, 2018

10:30 a.m.

Room 312

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2858 SD2, which would require the Department of Public Safety (PSD) to collect, aggregate, and publicly report data relating to key enumerated performance indicators. **This measure would promote important legislative and community oversight, and provide information that may be critical to the enactment of much-needed reforms to our criminal justice system.**

Decades of a traditional criminal justice approach have led to the highest prison population in Hawai'i's history. Between 1977 and 2008, the number of people incarcerated in Hawai'i increased by more than 900 percent, between 1977 and today, our incarcerated population increased by 1,400 percent.¹ The Native Hawaiian community has been particularly impacted by this increase, making up 40% of our current prison population.² Moreover, this overrepresentation of Native Hawaiians in the criminal justice system indicates larger systemic issues, such as implicit bias and disparate treatment in interactions from arrest, to adjudication, to final release.³ **Accordingly, OHA has long advocated for criminal justice reform that would thoroughly examine and effectively implement evidence-based incarceration alternatives, that can improve public safety, effectively rehabilitate pa'ahao, reduce recidivism, and save taxpayer dollars.⁴**

¹THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² In contrast, Native Hawaiians only represent 24% of the general public in Hawai'i. *Id.* at 36.

³ OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." (at pg. 10) Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38.

⁴ The NHJTF recommended several options to address systemic issues resulting in overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several proposals from the 2011 Justice Reinvestment Initiative legislation that were not originally passed or implemented, investing in early intervention programs, increasing public defender funding, expanding implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu'uhonua and bolstering reintegration programs and services to better prevent recidivism. *Id.* at 27-30.

The Native Hawaiian Justice Task Force, in its 2012 report, found that data collection, integration, and infrastructure needed to be improved at various levels within the criminal justice system.⁵ The Task Force noted that an analysis of additional control variables “would provide a richer understanding of why Native Hawaiians remain disproportionately represented in the criminal justice system.”⁶ Consistent with the Task Force’s report, this measure will help to provide robust and comprehensive data, which can inform the exploration, development, and implementation of policies and programs that meaningfully address the costly and growing impacts of our criminal justice system on Native Hawaiians and the larger community.

Therefore, OHA respectfully requests that the Committee **PASS** SB2858 SD2. Mahalo for the opportunity to testify on this measure.

⁵ OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012) at 8, *available at* http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

⁶ *Id.*

SB-2858-SD-2

Submitted on: 3/13/2018 9:29:25 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We continue to STRONGLY SUPPORT this bill, as the TAXPAYERS have a right to know how their TAX MONIES are being spent. Mahalo.



COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Thursday, March 15, 2018 at 10:30 AM

Conference Room 312

RE: SUPPORT SB 2858, SD2 Public Safety (Performance Indicators)

Dear Chair Takayama, Vice Chair Gates and Members of the Committee:

Hawai'i Justice Coalition is a grassroots education and advocacy coalition comprised of organizations and individuals united in our work to reduce the number of people incarcerated in Hawai'i's jails and prisons. We seek to shift the state's spending priorities away from mass criminalization and incarceration towards rehabilitation, education, restorative justice, health and human services. We believe that comprehensive criminal justice reform makes fiscal sense, and builds safe and healthy communities.

When analyzing proposed criminal justice legislation, we implore policy makers to evaluate each bill from a systems thinking approach with two overarching principles in mind:

- Criminal justice policies, NOT crime rates, are the prime drivers of changes in jail and prison population.
- Through comprehensive criminal justice reform policies, other states have proven that it is possible to substantially reduce the incarcerated population, and save money, without compromising public safety.

SB 2858 requires the Department of Public Safety to establish key performance indicators for inmate reentry system, and requires reports, using key performance indicators, to be provided to the legislature. As it stands, the Legislature has limited access to PSD data to effectively evaluate the cost-effectiveness of current policies, programs and services. Codifying these performance measures in statutes would increase accountability and transparency within the Department of Public Safety, and provide Legislators and community members with data to better assess the efficacy and cost-benefit analysis associated with PSD policies, programs and services.

Sincerely,

Carrie Ann Shirota, JD

Hawai'i Justice Coalition

www.hi.justice.org

cashiota808@gmail.com

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Cedric Gates, Vice Chair

Thursday, March 15, 2018

10:30 am

Room 312

SB 2858 SD2 - PERFORMANCE INDICATORS FOR REENTRY = SUPPORT

Aloha Chair Takayama, Vice Chair Gates and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of all the people who have died in our facilities including, JESSICA FORTSON, JOEY O'MALLEY, DAISY KASITATI, ASHLEY GREY. and the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that approximately 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 2858 SD2 requires the Department of Public Safety to establish key performance indicators for inmate reentry system. Requires reports, using key performance indicators, to be provided to the legislature. Creates the annual corrections and program report as a consolidated report of other annual reports.

Community Alliance on Prisons is in strong support of this measure and any bill or resolution that mandates transparency and open access to data.

The department does file lots of reports every year with the legislature. This great bill consolidates the reports and instead requires reporting on specific programs and that they are gender-responsive, as well as specifics contained in Chapter 353H - Hawai'i's reentry law - The Community Safety Act. This requirement will ensure that the usual "cut and paste" reports will actually be useful documents for policymakers and the public. Open access means that policymakers and the community have quick access to raw data. The only way for a department to improve its services is to track how they are doing.

If the legislature and the community do not have access to data, then we have the current situation - a department that operates in secret with zero accountability. Community Alliance on Prisons urges the committee to support this measure.

*"Some of the best theorizing comes after collecting data
because then you become aware of another reality."*

Robert J. Shiller, Winner of the Nobel Prize in Economics

SB-2858-SD-2

Submitted on: 3/14/2018 10:05:56 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee, Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Gregg Takayama, Chair; the Honorable Cedric Asuega Gates, Vice-Chair, and Members of the House Committee on Public Safety:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2858 SD2**, relating to Inmate Rehabilitation; Reentry System; and Performance Indicators.

The OCC Legislative Priorities Committee is in favor of **SB2858 SD2** and support its passage.

SB2858 SD2 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires the Department of Public Safety to establish key performance indicators for inmate reentry system; requires reports, using key performance indicators, to be provided to the legislature; and creates the annual corrections and program report as a consolidated report of other annual reports.

The DPH Platform states that "[w]e support restorative justice that repairs the harm caused by criminal behaviors and reintegrates the offenders as contributing members of society. Likewise we support opportunities for those who have been incarcerated to effect a smooth transition back into the community and make available health, educational, and other assistance programs needed to allow them to become productive and respected members of the community. We want the practice of private for-profit detention centers and prisons prohibited." (Platform of the DPH, P. 5, Lines 273-278 (2016)).

Given that **SB2858 SD2** requires the Department of Public Safety to establish key performance indicators for inmate reentry system; requires reports, using key performance indicators, to be provided to the legislature; and creates the annual corrections and program report as a consolidated report of other annual reports, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC Legislative Priorities Committee

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

LATE



YOUNG PROGRESSIVES DEMANDING ACTION

Aloha Chair Takayama, Vice Chair Gates and members of the House Committee on Public Safety,

The members of the Young Progressives Demanding Action – Hawai‘i **strongly support** both SB2858 SD2 & SB2861 SD2. Both of these bills are steps toward accountability and transparency when dealing with corrections and the criminal justice system. People who are committed to this system are stripped of certain rights because they have been deemed to have violated some part of the social contract. They are also locked away from sight and mind of the public, physically, emotionally and mentally cut off from their loved ones and advocates. As a result, they are particularly vulnerable to civil and human rights violations.

The overall direction this committee is leading the State of Hawai‘i when it comes to criminal justice reform is good. Many of the bills that have been introduced this session give us hope. In particular, bills aimed at assessing and reforming pretrial and effective incarceration practices must be supported. However, without specific data, task forces currently looking at both avenues of reform will continue to be limited in their ability to formulate good recommendations on policy for this committee to act on.

Even basic information, like the demographics of our jail and prison population and the cost of incarceration, are only available upon request and are difficult to acquire from the department. More and more states are adopting data-driven approaches to incarceration to implement truly best practices in reducing rates of recidivism, taxpayer costs, and to improve the safety of their communities. And their progress has been well-documented now. Hawai‘i should join this “smart justice” approach and implement a comprehensive data collection system. This information must be made publicly available. These bills will help the state to develop sound policies that improve our communities, improve safety, and promote justice, and we ask that you support both and pass them through committee today.

Mahalo,

Will Caron

Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawai‘i

LATE



Committee: House Committee on Public Safety
Hearing Date/Time: Thursday, March 15, 2018, 10:30 a.m.
Place: Conference Room 312
Re: Testimony of the ACLU of Hawai'i in support of S.B. 2858, S.D. 2,
Relating to Establishing Key Performance Indicators

Dear Chair Takayama, Vice Chair Gates, and Committee Members:

The American Civil Liberties Union of Hawai'i writes in **strong support** of S.B. 2858, S.D. 2, which requires the Department of Public Safety ("**DPS**") to, among other things, develop performance measures to track progress in improving recidivism rates, decreasing prisoner assaults, reducing staff turnover, and improving efficiencies. We support these measures, because clear performance metrics are important not only to public safety but also to transparency, efficiency, and accountability.

S.B. 2858, S.D. 2, also requires that DPS develop key performance indicators, including various data points relating to intakes, offender demographics, length of stay, etc. One of the barriers to meaningful and evidence-based criminal and correctional reform in Hawai'i is lack of relevant data. Therefore, we request that your Committee amend S.B. 2858, S.D. 2, so that there is no doubt that DPS is required to annually report on all key performance indicator referenced in the bill. Specifically, Section 3 of S.B. 2858, S.D. 2, should be amended to add the following language in red:

b) The department shall include in its annual report to the legislature pursuant to section 353- a report section that shall **report on and reference all** key performance indicators for the fiscal year that ended before the report.

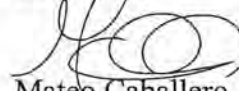
This data will allow DPS, the Legislature, the Judiciary, and the public to better assess Hawai'i's correctional system as we all weigh important decisions about the future of such system in Hawai'i.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: (808) 522-5900
F: (808) 522-5909
E: office@acluhawaii.org
www.acluhawaii.org

March 15, 2018
Page 2 of 2

Thank you for the opportunity to testify.

Sincerely,



Mateo Caballero
Legal Director
ACLU of Hawai'i

The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for over 50 years.

SB-2858-SD-2

Submitted on: 3/13/2018 9:50:51 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Individual	Support	Yes

Comments:

In STRONG SUPPORT.

SB-2858-SD-2

Submitted on: 3/14/2018 3:53:36 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

Thank you for considering this bill.

I ask your support for passage. Data is needed for evaluation and the public's need to know.

SB-2858-SD-2

Submitted on: 3/14/2018 7:41:31 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Younghi Overly	Individual	Support	No

Comments:

SB-2858-SD-2

Submitted on: 3/14/2018 9:44:21 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Polk	Individual	Support	No

Comments:

Chair Takayama, Vice Chair Gates, and Members of the committee:

I strongly support SB2858 SD2, and especially its emphasis on reporting various data on pre-trial detainees. This data has been difficult to separate from other data for jail inmates in the past, leading to the possibility of misunderstanding of who is incarcerated and for what level of crime. I also especially support the improved emphasis on data on detainees of native Hawaiian ancestry. The percentage of Hawaiians in our jails and prisons suggests that the State is neglecting its responsibility for the native culture of the islands. Better data collection and performance measures will be very helpful to the public, legislators, judiciary and Department of Public Safety in understanding this issue.

I urge you to pass SB2858 SD2.

Thank you for the opportunity to testify IN SUPPORT OF SB2858.

HOUSE OF REPRESENTATIVES
THE TWENTY-NINTH LEGISLATURE
REGULAR SESSION OF 2018

To: COMMITTEE ON PUBLIC SAFETY

Rep. Gregg Takayama, Chair

Rep. Cedric Asuega Gates, Vice Chair

Rep. Richard P. Creagan

Rep. Lynn DeCoite

Rep. Kaniela Ing

Rep. Calvin K.Y. Say

Rep. Cynthia Thielen

HEARING: Thursday, March 15, 2018 at 10:30am, Conference Room 312

RE: Testimony in SUPPORT of SB 2858, SD2: RELATING TO PUBLIC SAFETY.

Through SB 2858, SD2, the Department of Public Safety would be required to collect, analyze, and disseminate data relating to identified performance indicators. Transparency serves as one significant benefit afforded by this bill, yet I feel it's greatest strength lies in its push for communication.

If a sole government agency retains such information, change could only come from within that institution. However, if data is disseminated to the legislature and available to the public, this invites conversations on means to best address the issues of criminal justice reform, recidivism, and the associated economics. Moreover, I believe the multitude of data points would be of interest to various community organizations, resulting in their involvement, their coming to the table to brainstorm ideas.

Thank you for the opportunity to testify on this measure.

Respectfully submitted,

Chelsea Cordero

SB-2858-SD-2

Submitted on: 3/14/2018 10:29:19 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments:

LATE

SB-2858-SD-2

Submitted on: 3/14/2018 1:52:41 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Dr. Sue Haglund	Individual	Support	No

Comments:

It is very important that the Hawaii State Legislature publicly invest in this publicly funded research and data for specific data on reentry planning, programming, reporting requirements (just to name a few). The Department of Public Safety is a large operating unit that often does not provide the public and us researchers with proper, specific data that enables us to make better legislative policy that meets the needs to our public and accuracy on areas that are compliant or areas not in compliance to State and Federal laws, but needs improvement.

I fully support this measure.

LATE

SB-2858-SD-2

Submitted on: 3/14/2018 4:33:11 PM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Erica Scott	Individual	Support	No

Comments:

LATE

SB-2858-SD-2

Submitted on: 3/15/2018 12:56:37 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Nikos Leverenz	Individual	Support	No

Comments:

LATE

LATE

SB-2858-SD-2

Submitted on: 3/15/2018 10:58:41 AM

Testimony for PBS on 3/15/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Honolulu, Hawaii

MAR 21 , 2018

RE: S.B. No. 2858
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Public Safety, to which was referred S.B. No. 2858, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

The purpose of this measure is to improve the efficacy of the State's corrections program. Specifically, this measure:

- (1) Requires the Department of Public Safety to establish key performance indicators that evaluate the Department's efforts to improve offender reentry and rehabilitation;
- (2) Requires reports, using key performance indicators, to be provided to the Legislature; and
- (3) Creates the annual corrections and program report as a consolidated report of other annual reports.

The Office of Hawaiian Affairs, Ho'omanapono Political Action Committee, Hawai'i Justice Coalition, Community Alliance on Prisons, Oahu County Committee on Legislative Priorities of the Democratic Party of Hawaii, Young Progressives Demanding Action - Hawai'i, and several concerned individuals supported this measure.



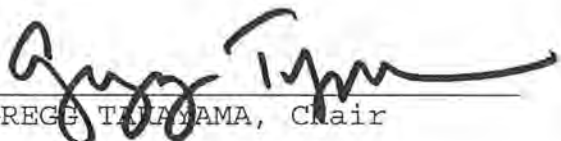
The Department of Public Safety and American Civil Liberties Union of Hawai'i offered comments.

Your Committee has amended this measure by deleting its contents and inserting the substantive provisions of House Bill No. 2452, H.D. 1, which was heard by your Committee earlier this session. Your Committee further amended this measure, and as amended, this measure ensures disaster preparedness by:

- (1) Requiring the design of all State buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes; and
- (2) Requiring new construction to be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014.

As affirmed by the record of votes of the members of your Committee on Public Safety that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2858, S.D. 2, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Public Safety,


GREG TANIYAMA, Chair



HS-R 1255-18

Bill/Resolution No.:	Committee Referral:	Date:		
SB 2858 SD 2	PBS, FIN	3.15.18		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
PBS Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKAYAMA, Gregg (C)	✓			
2. GATES, Cedric Asuega (VC)	✓			
3. CREAGAN, Richard P.	✓			
4. DeCOITE, Lynn				✓
5. ING, Kaniela				✓
6. SAY, Calvin K.Y.	✓			
7. THIELEN, Cynthia	✓			
TOTAL (7)	5	0	0	2
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

HOUSE OF REPRESENTATIVES
STATE OF HAWAII
TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2018

March 21, 2018

35th Day

ORDER OF BUSINESS

Invocation - Ms. Megan Kira
Office of Representative Scott Y. Nishimoto

1. Roll Call
2. Reading of the Journal
3. Messages from the Governor
4. Senate Communications

ORDER OF THE DAY

5. Reports of Standing Committees

TRANSPORTATION

Stand. Comm. Rep. No. 1242-18

S.B. No. 2828, S.D. 2

RELATING TO MOTOR VEHICLE
INSPECTIONS.
(Transportation; Motor Vehicle Inspection)

PASS SECOND READING, REFER TO
FINANCE

Stand. Comm. Rep. No. 1243-18

S.B. No. 80, S.D. 2

RELATING TO TRANSPORTATION.
(Daniel K. Inouye International Airport; Radio
Aerial Relocation; Emergency Appropriation)

PASS SECOND READING, REFER TO
FINANCE

CONSUMER PROTECTION & COMMERCE

Stand. Comm. Rep. No. 1252-18

S.B. No. 2710, S.D. 1, H.D. 1

RELATING TO INTOXICATING LIQUOR.
(Brewpub License; Small Craft Producer Pub
License; Minors)

AS AMENDED, PASS SECOND READING,
REFER TO JUDICIARY

Stand. Comm. Rep. No. 1253-18

S.B. No. 2493, S.D. 2, H.D. 1

RELATING TO INSURANCE.
(Insurance; Producer Licensing; Producer
Licensing Model Act)

AS AMENDED, PASS SECOND READING,
REFER TO FINANCE

Stand. Comm. Rep. No. 1254-18

S.B. No. 2643, S.D. 1, H.D. 1

RELATING TO INSURANCE.
(Insurance; Financial Information; Biennial
Privacy Notice)

AS AMENDED, PASS SECOND READING,
REFER TO FINANCE

PUBLIC SAFETY

Stand. Comm. Rep. No. 1255-18

S.B. No. 2858, S.D. 2, H.D. 1

RELATING TO PUBLIC SAFETY.
(Public Safety; Public Improvements; State
Building Construction; Disaster Preparedness;
Hurricane; Standards)

AS AMENDED, PASS SECOND READING,
REFER TO FINANCE

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 107-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§107-27 Design of state buildings. (a) No later than
4 one year after the adoption of codes or standards pursuant to
5 section 107-24(c), the design of all state building construction
6 shall be in compliance with the Hawaii state building codes,
7 except state building construction shall be allowed to be
8 exempted from:

9 (1) County codes that have not adopted the Hawaii state
10 building codes;

11 (2) Any county code amendments that are inconsistent with
12 the minimum performance objectives of the Hawaii state
13 building codes or the objectives enumerated in this
14 part; or

15 (3) Any county code amendments that are contrary to code
16 amendments adopted by another county.



(b) Exemptions shall include county ordinances allowing the exercise of indigenous Hawaiian architecture adopted in accordance with section 46-1.55.

(c) For state buildings constructed on or after July 1, 2018, the design of state buildings shall include a shelter room or area that is capable of protecting individuals from category 3 hurricanes. The new construction shall be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect on July 1, 2050.



Report Title:

Public Safety; Public Improvements; State Building Construction;
Disaster Preparedness; Hurricane; Standards

Description:

Requires the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes. Requires new construction to be consistent with specific standards. (SB2858 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
Comptroller

AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF
RODERICK K. BECKER, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE ON FINANCE
ON
WEDNESDAY, MARCH 28, 2018
3:00 PM
CONFERENCE ROOM 308

S.B. 2858, S.D. 2, H.D. 1

RELATING TO PUBLIC SAFETY.

Chair Luke, Vice Chair Cullen, and Members of the Committee, thank you for the opportunity to submit testimony on S.B. 2858, S.D. 2, H.D. 1.

The Department of Accounting and General Services (DAGS) opposes this bill for the following reasons:

1. As noted in our testimony regarding H.B. 2452, H.D. 1, there are no established parameters or standards that consider the increase in the cost of construction to provide a shelter room or area capable of protecting individuals from category 3 hurricanes. FEMA document P-361, Safe Rooms for Tornadoes and Hurricanes (March 2015) notes that provision of such shelters requires design and construction to exceed the requirements of model codes (including the codes in force throughout the State) and estimates construction cost increases of 5 percent to more than 30 percent for new construction.

2. The bill does not confine the scope to newly constructed buildings. We note that, in addressing construction, Hawaii Revised Statutes (HRS) Chapter 103D includes altering, repairing, improving and performing routine maintenance and repairs on existing facilities. The FEMA document cited above estimates that retrofitting existing facilities to provide such shelters may involve cost increases of 10 to 15 percent above the increased costs estimated for new construction; and, depending on the age of a structure and the purpose for which it was originally constructed, it is likely many structures within the State's inventory may be unsuitable for retrofit for shelter use.
3. The bill provides that State facilities constructed on or after July 1, 2018 include such shelters. The process of obtaining funding, planning, designing and permitting for construction typically involves a multi-year duration. This new provision will require that projects now ready or nearing readiness for construction be delayed (with an expectation of increased cost) for redesign to include the shelters, or cancelled due to lack of adequate funding to sustain the increased costs of providing the shelters.
4. The bill makes no distinction among the various types of state facilities that might be appropriate for provision of such shelters. While, for example, a new classroom building at a high school may provide good opportunity for such shelter, it is less likely that a restroom facility at a State park will provide the same opportunity.

5. The bill provides no statement of intent or other guidance regarding the number of individuals to be protected.
6. The requirements of this bill should be coordinated with all departments and agencies responsible for the health and safety of the public to ensure their needs and relevant knowledge, along with the needs of the State's diverse communities and geographic circumstances, are considered in the development of any codes or other regulations to specifically address the requirements of such shelters.

Thank you for the opportunity to submit testimony on this matter.



SB2858 SD2 HD1
RELATING TO PUBLIC SAFETY
House Committee on Public Safety

March 28, 2018

3:00 p.m.

Room 308

The Administration of the Office of Hawaiian Affairs (OHA) will recommend that the Board of Trustees offer the following **COMMENTS** on SB2858 SD2 HD1, which would ensure state buildings built after July 1, 2018 adhere to State Civil Defense standards of disaster preparedness. Although protecting Hawai'i state buildings and citizens is a laudable goal, this draft would abandon the critically important purpose of previous drafts to require the Department of Public Safety (PSD) to collect, aggregate, and publicly report data relating to key enumerated performance indicators. **This previous draft would promote important legislative and community oversight, and provide information that may be critical to the enactment of much-needed reforms to our criminal justice system.**

Decades of a traditional criminal justice approach have led to the highest prison population in Hawai'i's history. Between 1977 and 2008, the number of people incarcerated in Hawai'i increased by more than 900 percent, between 1977 and today, our incarcerated population increased by 1,400 percent.¹ The Native Hawaiian community has been particularly impacted by this increase, making up 40% of our current prison population.² Moreover, the overrepresentation of Native Hawaiians in the criminal justice system indicates larger systemic issues, such as implicit bias and disparate treatment in interactions from arrest, to adjudication, to final release.³ **Accordingly, OHA has long advocated for criminal justice reform that would thoroughly examine and effectively implement evidence-based incarceration alternatives, that can improve public safety, effectively rehabilitate pa'ahao, reduce recidivism, and save taxpayer dollars.**⁴

¹THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 17 (2010), available at http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf.

² In contrast, Native Hawaiians only represent 24% of the general public in Hawai'i. *Id.* at 36.

³ OHA's 2010 study found that the disproportionate impact of the criminal justice system on Native Hawaiians accumulates at every stage, noting that Native Hawaiians made up "24 percent of the general population, but 27 percent of all arrests, 33 percent of people in pretrial detention, 29 percent of people sentenced to probation, 36 percent admitted to prison in 2009, [and] 39 percent of the incarcerated population." *Id.* at 10. Moreover, controlling for many common factors including type of charge, the study revealed that Native Hawaiians were more likely to be found guilty, receive a prison sentence, and receive a longer prison sentence or probation term than most other ethnic groups. *Id.* at 28-38.

⁴ The Native Hawaiian Justice Task Force recommended several options to address systemic issues resulting in the overrepresentation of Native Hawaiians in the criminal justice system. These included reconsidering several legislative proposals from the 2011 Justice Reinvestment Initiative that were not originally passed or implemented, investing in early intervention programs, increasing public defender funding, expanding

The Native Hawaiian Justice Task Force, in its 2012 report, found that data collection, integration, and infrastructure needed to be improved at various levels within the criminal justice system.⁵ The Task Force noted that an analysis of additional control variables “would provide a richer understanding of why Native Hawaiians remain disproportionately represented in the criminal justice system.”⁶ Consistent with the Task Force’s report, this measure could help to provide robust and comprehensive data, which can inform the exploration, development, and implementation of policies and programs that meaningfully address the costly and growing impacts of our criminal justice system on Native Hawaiians and the larger community.

Therefore, OHA respectfully requests that the Committee amend this bill, to revert to the original or amended Senate versions of this measure. Mahalo for the opportunity to testify on this measure.

implicit bias training, strengthening supervised release programs, executing compassionate release consistently, supporting indigenous models of healing alternatives such as pu’uhonua, and bolstering reintegration programs and services to better prevent recidivism. *Id.* at 27-30.

⁵ OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT (2012) at 8, available at http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf.

⁶ *Id.*

SB-2858-HD-1

Submitted on: 3/27/2018 11:23:10 AM

Testimony for FIN on 3/28/2018 3:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i	Support	No

Comments:

To the Honorable Sylvia Luke, Chair; the Honorable Ty J.K. Cullen, Vice-Chair and the Members of the Committee on Finance:

Good afternoon, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") on Legislative Priorities of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on **SB2858 SD2 HD1** relating to Public Safety; Public Improvements; State Building Construction; Disaster Preparedness; and Hurricane; Standards

The OCC on Legislative Priorities is in favor of **SB2858 SD2 HD1** and supports its passage.

SB2858 SD2 HD1 is in alignment with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it requires the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes and requires new construction to be consistent with specific standards.

The DPH Platform states that "We believe in a government that will adequately, efficiently, courteously, openly, ethically and fairly administer to the needs of the people." (Platform of the DPH, P. 5, Lines 245-246 (2016)).

"We support Federal initiatives, both from Congress and from the future administrations that would mitigate the catastrophic cultural, economic, and environmental damage created by federal policies on globalization." (Platform of the DPH, P. 10, Lines 503-505 (2016)).

Given that **SB2858 SD2 HD1** requires the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes and requires new construction to be consistent with specific standards, it is the position of the OCC on Legislative Priorities to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ Melodie Aduja

Melodie Aduja, Chair, OCC on Legislative Priorities
Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

LATE



YOUNG PROGRESSIVES DEMANDING ACTION

Aloha Chair Luke, Vice Chair Cullen and members of the House Committee on Finance,

The members of the Young Progressives Demanding Action – Hawai‘i offers comments on SB2858 SD2 HD1. While we do not oppose the construction of hurricane shelters and the concept of planning for increasingly destructive storms in the 21st century, we are nevertheless disappointed that the House Public Safety committee decided to gut an important bill that would have required the Department of Public Safety (DPS) to report on program outcomes.

We desperately need more information from the DPS in order to craft a “smart justice” policy that advances programming and restorative justice techniques over incarceration and punishment. Such an approach will save the state millions of dollars, and create far better outcomes for offenders who will be able to reintegrate in society effectively, reducing recidivism and keeping our communities safer.

The previous version of this bill represented a step toward accountability and transparency when dealing with corrections and the criminal justice system. People who are committed to this system are stripped of certain rights because they have been deemed to have violated some part of the social contract. They are also locked away from sight and mind of the public, physically, emotionally and mentally cut off from their loved ones and advocates. As a result, they are particularly vulnerable to civil and human rights violations.

We feel it is critical that some form of legislation advancing this data-driven approach to criminal justice reform be passed this year. So while we do not oppose this bill, we ask that the Finance Committee please schedule SB2861 SD2 HD1 and pass it.

This session has been a disappointment for criminal justice reform: Many good bills aimed at assessing and reforming pretrial incarceration, reforming the bail system and establishing more effective incarceration practices died. We currently have two task forces studying this issue, and these task forces were used as cover to kill many of these bills. However, without specific data, task forces currently

looking at both avenues of reform will continue to be limited in their ability to formulate good recommendations on policy for this legislature to act on.

Even basic information, like the demographics of our jail and prison population and the cost of incarceration, are only available upon request and are difficult to acquire from the department. More and more states are adopting data-driven approaches to incarceration to implement truly best practices in reducing rates of recidivism, taxpayer costs, and to improve the safety of their communities. And their progress has been well-documented now. Hawai'i should join this "smart justice" approach and implement a comprehensive data collection system. This information must be made publicly available. These bills will help the state to develop sound policies that improve our communities, improve safety, and promote justice, and we ask that you support both and pass them through committee today.

Mahalo,

Will Caron
Social Justice Action Committee Chair
Young Progressives Demanding Action – Hawai'i

Honolulu, Hawaii

APR 06 , 2018

RE: S.B. No. 2858
S.D. 2
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sir:

Your Committee on Finance, to which was referred S.B. No. 2858, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

begs leave to report as follows:

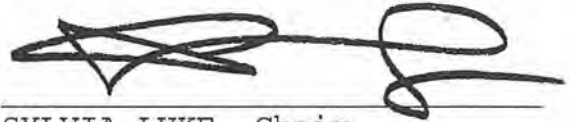
The purpose of this measure is to require the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes. This measure also requires new construction to be consistent with specific standards.

The Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i supported this measure. The Department of Accounting and General Services opposed this measure. The Office of Hawaiian Affairs and Young Progressives Demanding Action - Hawai'i provided comments.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2858, S.D. 2, H.D. 1, and recommends that it pass Third Reading.



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

A handwritten signature in dark ink, appearing to be 'Sylvia Luke', written over a horizontal line.

SYLVIA LUKE, Chair



State of Hawaii
House of Representatives
The Twenty-ninth Legislature

HSR 1912-18

Record of Votes of the Committee on Finance

Bill/Resolution No.: <i>SB 2868 SB 2, HD1</i>	Committee Referral: <i>PBS, FIN</i>	Date: <i>3/28/18</i>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
FIN Members	Ayes	Ayes (WR)	Nays	Excused
1. LUKE, Sylvia (C)	✓			
2. CULLEN, Ty J.K. (VC)	✓			
3. CACHOLA, Romy M.	✓			
4. DeCOITE, Lynn	✓			
5. FUKUMOTO, Beth	✓			
6. GATES, Cedric Asuega	✓			
7. HOLT, Daniel		✓		
8. KEOHOKALOLE, Jarrett	✓			
9. KOBAYASHI, Bertrand			✓	
10. LOWEN, Nicole E.	✓			
11. NAKAMURA, Nadine K.	✓			
12. TODD, Chris		✓		
13. YAMASHITA, Kyle T.	✓			
14. TUPOLA, Andria P.L.				✓
15. WARD, Gene	✓			
TOTAL (15)	<i>11</i>	<i>2</i>	<i>1</i>	<i>1</i>
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <i>[Signature]</i>				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				



HOUSE OF REPRESENTATIVES
STATE OF HAWAII
TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2018

April 6, 2018

45th Day

ORDER OF BUSINESS

Invocation - Reverend Dr. John R. Heidel
United Church of Christ

1. Roll Call
2. Reading of the Journal
3. Messages from the Governor

Received message number 1102 informing the House that H.B. No. 2739, H.D. 1, was signed into law on April 5, 2018, as Act 002.

4. Senate Communications

See Addendum.

ORDER OF THE DAY

5. Reports of Standing Committees

FINANCE

Stand. Comm. Rep. No. 1888-18

S.B. No. 974, S.D. 2, H.D. 2

RELATING TO PARKING FOR DISABLED
PERSONS.

(Persons with a Disability; Parking Meters;
Exemption)

PASS THIRD READING

FINANCE

Stand. Comm. Rep. No. 1912-18

S.B. No. 2858, S.D. 2, H.D. 1

RELATING TO PUBLIC SAFETY.

(Public Safety; Public Improvements; State Building Construction; Disaster Preparedness; Hurricane; Standards)

PASS THIRD READING

Stand. Comm. Rep. No. 1913-18

S.B. No. 2861, S.D. 2, H.D. 1

RELATING TO PUBLIC SAFETY.

(DPS; Inmate Rehabilitation; Reentry System; Reporting Requirements)

PASS THIRD READING

Stand. Comm. Rep. No. 1914-18

S.B. No. 2237, S.D. 2, H.D. 1

RELATING TO PUBLIC SCHOOLS.

(Transfer of Land; Department of Education; Property; Title; Public Schools)

PASS THIRD READING

Stand. Comm. Rep. No. 1915-18

S.B. No. 2919, S.D. 2, H.D. 1

RELATING TO PUBLIC LIBRARIES.

(Public Library Lands; Leases; BOE; Appropriation)

PASS THIRD READING

Stand. Comm. Rep. No. 1916-18

S.B. No. 3002, S.D. 1, H.D. 1

RELATING TO LIBRARIES.

(Libraries; Notary Services; Exemption; Fee)

PASS THIRD READING

Honolulu, Hawaii

APR 27 2018

RE: S.B. No. 2858
S.D. 2
H.D. 1
C.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Honorable Scott K. Saiki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2018
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 2858, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC SAFETY,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to:

- (1) Require the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes; and
- (2) Require the new construction to be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014.



Your Committee on Conference finds that ensuring that state buildings are capable of withstanding extreme weather-related events and emergencies is essential for maintaining public welfare. Your Committee on Conference further finds that public schools are particularly vulnerable to the effects of weather-related events and emergencies and situated in areas easily accessible by community members and would therefore be the ideal initial sites for enhanced building design and construction. Accordingly, your Committee on Conference finds that the State should consider relevant hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge.

Your Committee on Conference has amended this measure by:

- (1) Removing language requiring the design of all state buildings constructed on or after July 1, 2018, to include a shelter room or area that is capable of protecting individuals from Category 3 hurricanes and that the new construction be consistent with standards issued in the Report of Recommended Statewide Public Hurricane Shelter Criteria, Hurricane Shelter Criteria Committee, State Civil Defense, June 24, 2014;
- (2) Inserting language to require the State to consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge; and
- (3) Changing the effective date to upon approval.

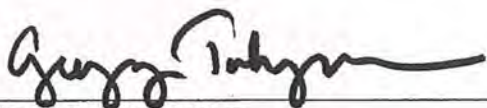
As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 2858, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

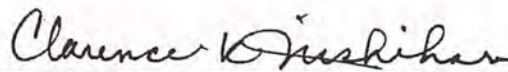
ON THE PART OF THE SENATE



GREGG TAKAYAMA
Co-Chair



CEDRIC ASUEGA GATES
Co-Chair



CLARENCE K. NISHIHARA
Chair



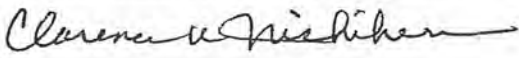
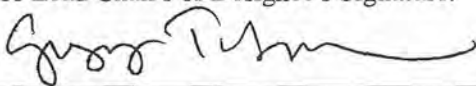
MAILE S.L. SHIMABUKURO
Co-Chair



Hawai'i State Legislature

CR 93-18

Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: SB 2858, SD 2, HD 1					Date/Time: 4/26/18 10:10 a.m.				
<input checked="" type="checkbox"/> The recommendation of the House and Senate managers is to pass with amendments (CD).									
<input type="checkbox"/> The Committee is reconsidering its previous decision.									
<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure					<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.				
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
NISHIHARA, Clarence K., Chr.	✓				TAKAYAMA, Gregg, Co-Chr.	✓			
SHIMABUKURO, Maile S.L., Co-Chr.	✓				GATES, Cedric Asuega, Co-Chr.	✓			
THIELEN, Laura H.	✓				YAMASHITA, Kyle T.	✓			
					THIELEN, Cynthia				✓
TOTAL	3			0	TOTAL	3			1
A = Aye		WR = Aye with Reservations			N = Nay		E = Excused		
Senate Recommendation is:					House Recommendation is:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted					<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Senate Lead Chair's or Designee's Signature:					House Lead Chair's or Designee's Signature:				
									
Distribution:					Distribution:				
Original					Yellow				
File with Conference Committee Report					House Clerk's Office				
					Pink				
					Senate Clerk's Office				
					Goldenrod				
					Drafting Agency				

HOUSE OF REPRESENTATIVES
STATE OF HAWAII
TWENTY-NINTH STATE LEGISLATURE
REGULAR SESSION, 2018

May 1, 2018

59th Day

ORDER OF BUSINESS

Invocation - Professor Noelani Arista
University of Hawaii at Manoa Department of History

1. Roll Call
2. Reading of the Journal
3. Messages from the Governor
4. Senate Communications

Received communication informing the House that the following House and Senate Bills passed Final Reading in the Senate:

H.B. No. 2145, H.D. 1, S.D. 1, C.D. 1
S.B. No. 2821, S.D. 1, H.D. 1, C.D. 1

Received communication informing the House that the Senate has reconsidered action in disagreeing to amendments proposed by the House, has moved to agree, and has adopted the following Senate Concurrent Resolutions:

S.C.R. No. 11, S.D. 1, H.D. 1
S.C.R. No. 40, S.D. 1, H.D. 1
S.C.R. No. 64, S.D. 1, H.D. 1
S.C.R. No. 81, S.D. 1, H.D. 1
S.C.R. No. 83, S.D. 1, H.D. 1
S.C.R. No. 149, S.D. 1, H.D. 2

ORDER OF THE DAY

PART I. CONSENT CALENDAR

5a. Unfinished Business

Conf. Comm. Rep. No. 6-18

S.B. No. 2803, S.D. 2, H.D. 1, C.D. 1

RELATING TO BOILER AND ELEVATOR
SAFETY LAW.
(Boiler and Elevator Safety Law; Boiler and
Elevator Revolving Fund)

AS AMENDED, PASS FINAL READING

Conf. Comm. Rep. No. 93-18

S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1

RELATING TO PUBLIC SAFETY.
(Public Safety; Public Improvements; State
Building Design and Construction; New Public
Schools; Disaster Preparedness; Hurricane;
Standards)

AS AMENDED, PASS FINAL READING

Conf. Comm. Rep. No. 96-18

S.B. No. 2801, S.D. 2, H.D. 1, C.D. 1

RELATING TO THE DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS.
(Labor Law Enforcement Special Fund;
Collections; Appropriation)

AS AMENDED, PASS FINAL READING

Conf. Comm. Rep. No. 97-18

S.B. No. 3000, S.D. 2, H.D. 1, C.D. 1

RELATING TO INNOVATION BUSINESS.
(Hawaii Technology Development Corporation;
Research and Development Program; Research
and Development Special Fund; Appropriation)

AS AMENDED, PASS FINAL READING

Conf. Comm. Rep. No. 98-18

S.B. No. 2150, S.D. 2, H.D. 1, C.D. 1

RELATING TO THE JUDICIARY.
(Judiciary Package; Supplemental
Appropriations; Budget)

AS AMENDED, PASS FINAL READING

Conf. Comm. Rep. No. 99-18

S.B. No. 2581, S.D. 1, H.D. 2, C.D. 1

RELATING TO THE KING KAMEHAMEHA
CELEBRATION COMMISSION.
(King Kamehameha Commission; Members;
Executive Director)

AS AMENDED, PASS FINAL READING

Conf. Comm. Rep. No. 100-18

H.B. No. 2610, H.D. 2, S.D. 1, C.D. 1

RELATING TO THE HAWAII TECHNOLOGY
DEVELOPMENT CORPORATION.
(Hawaii Technology Development Corporation;
Manufacturing Grant Program; Appropriation)

AS AMENDED, PASS FINAL READING

‘Aha Kenekoa ‘Aha‘ōlelo Iwakāluakumamāiwa
THE SENATE
OF THE
TWENTY-NINTH LEGISLATURE
Moku‘āina ‘O Hawai‘i
STATE OF HAWAII
‘Ākoakoa Kūmau MH 2018
REGULAR SESSION OF 2018

Lā Kanalimakumamāiwa
FIFTY-NINTH DAY

1 Mei 2018 - Po‘alua - Hola 10:00 A.M.
MAY 1, 2018-TUESDAY-10:00 O'CLOCK A.M.

Papahana O Ka Lā
ORDER OF BUSINESS

Kāhea Papainoa
ROLL CALL

‘Āpono Mo‘olelo O Ka Puke Hālāwai
APPROVAL OF THE JOURNAL

Ho‘olauna Mea Kipa
INTRODUCTIONS

Ho‘oka‘a‘ike Mai Ke Kia‘āina
MESSAGES FROM THE GOVERNOR: None

Ho‘oka‘a‘ike Mai Nā ‘Oihana
DEPARTMENTAL COMMUNICATIONS: None

Conf. Com. Rep. No. 86-18

Prior Versions/Status & Testimony

S.B. No. 2719, S.D. 1, H.D. 1, C.D. 1
"RELATING TO SEXUAL VIOLENCE."

(Sexual Abuse of Minors; Civil Action;
Statute of Limitations)

Conf. Com. Rep. No. 87-18

Prior Versions/Status & Testimony

S.B. No. 2742, S.D. 1, H.D. 1, C.D. 1
"RELATING TO CRIMINAL HISTORY
RECORD INFORMATION."

(Criminal History Record Information)

Conf. Com. Rep. No. 88-18

Prior Versions/Status & Testimony

S.B. No. 2699, S.D. 2, H.D. 1, C.D. 1
"RELATING TO THE TRANSIENT
ACCOMMODATIONS TAX."

(Transient Accommodations Tax; Hotel
Resort Fees; Gross Rental Proceeds)

Conf. Com. Rep. No. 89-18

Prior Versions/Status & Testimony

S.B. No. 1208, S.D. 2, H.D. 1, C.D. 1
"RELATING TO AGRICULTURE."

(Twin Bridge Farms; Special Purpose
Revenue Bonds; Appropriation)

Conf. Com. Rep. No. 90-18

Prior Versions/Status & Testimony

S.B. No. 3002, S.D. 1, H.D. 1, C.D. 1
"RELATING TO LIBRARIES."

(Libraries; Notary Services; Exemption; Fee)

Conf. Com. Rep. No. 93-18

Prior Versions/Status & Testimony

S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1
"RELATING TO PUBLIC SAFETY."

(Public Safety; Public Improvements; State
Building Design and Construction; New
Public Schools; Disaster Preparedness;
Hurricane; Standards)



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

June 29, 2018

GOV. MSG. NO. 1185

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Ninth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Twenty-Ninth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 29, 2018, the following bill was signed into law:

SB2858 SD2 HD1 CD1

RELATING TO PUBLIC SAFETY
ACT 084 (18)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 107-27, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§107-27 Design of state buildings. (a) No later than
4 one year after the adoption of codes or standards pursuant to
5 section 107-24(c), the design of all state building construction
6 shall be in compliance with the Hawaii state building codes,
7 except state building construction shall be allowed to be
8 exempted from:

9 (1) County codes that have not adopted the Hawaii state
10 building codes;

11 (2) Any county code amendments that are inconsistent with
12 the minimum performance objectives of the Hawaii state
13 building codes or the objectives enumerated in this
14 part; or

15 (3) Any county code amendments that are contrary to code
16 amendments adopted by another county.



1 (b) Exemptions shall include county ordinances allowing
2 the exercise of indigenous Hawaiian architecture adopted in
3 accordance with section 46-1.55.

4 (c) The State shall consider hurricane resistant criteria
5 when designing and constructing new public schools for the
6 capability of providing shelter refuge."

7 SECTION 2. New statutory material is underscored.

8 SECTION 3. This Act shall take effect upon its approval.

APPROVED this 29 day of JUN, 2018

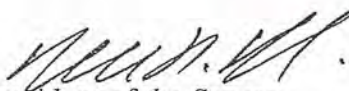


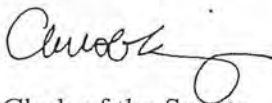
GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI'I

Date: May 1, 2018
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the
Senate of the Twenty-ninth Legislature of the State of Hawai'i, Regular Session of 2018.


President of the Senate


Clerk of the Senate

SB No. 2858, SD 2, HD 1, CD 1

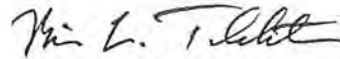
THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 1, 2018
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2018.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC
(Other Civil Action)

NOTICE OF HEARING

NOTICE OF HEARING

TO: Robyn B. Chun
Department of the Attorney General
425 Queen Street
Honolulu, Hawai'i 96813
Attorneys for Defendant

NOTICE IS HEREBY GIVEN that Plaintiffs' Motion for Summary Judgment shall come on for hearing before the Honorable Gary W. B. Chang, Judge of the above-entitled court, in his courtroom at Ka'ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai'i 96813, on December 5, 2018, at 3:00 p.m., or as soon thereafter as counsel may be heard.

DATED: Honolulu, Hawai'i, October 25, 2018



ROBERT BRIAN BLACK

*Attorney for League of Women Voters of Honolulu
and Common Cause*

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC
(Other Civil Action)


CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I, R. Brian Black, certify that on October 25, 2018, I will serve a copy of the foregoing Plaintiffs' Cross-Motion for Summary Judgment; Combined Memorandum of Law in Support of Cross-Motion for Summary Judgment and in Opposition to Defendant's Motion for Summary Judgment; Declaration of R. Brian Black; Exhibits 1-23; and Notice of Hearing on the following parties by U.S. mail, postage prepaid:

Robyn B. Chun
Department of the Attorney General
425 Queen Street
Honolulu, Hawai'i 96813
Attorneys for Defendant State of Hawai'i

DATED: Honolulu, Hawai'i, October 25, 2018



ROBERT BRIAN BLACK
*Attorney for League of Women
Voters of Honolulu and Common
Cause*

RUSSELL A. SUZUKI 2084
Attorney General

PATRICIA OHARA 3124
ROBYN B. CHUN 3661
Deputy Attorneys General
Department of the Attorney General,
State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Telephone: (808) 586-0618
Facsimile: (808) 586-1372
Email: robyn.b.chun@hawaii.gov

Attorneys for Defendant
STATE OF HAWAII

1ST CIRCUIT COURT
STATE OF HAWAII
FILED

2018 NOV -7 PM 3:02

[Signature]
A. DANBARA
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

v.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

DEFENDANT STATE OF HAWAII'S
REPLY TO PLAINTIFFS'
MEMORANDUM IN OPPOSITION TO
DEFENDANT STATE OF HAWAII'S
MOTION FOR SUMMARY
JUDGMENT; CERTIFICATE OF
SERVICE

Date: November 13, 2018

Time: 3:00 p.m.

Judge: Honorable Gary W.B. Chang

DEFENDANT STATE OF HAWAII'S **REPLY**
TO PLAINTIFFS' MEMORANDUM IN OPPOSITION TO
DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT

Plaintiffs' Memorandum in Opposition notwithstanding, Defendant

State of Hawai'i (the "State") is entitled to summary judgment because:

- A. Senate Bill (“S.B.”) No. 2858 did not require three readings in the Senate after the Conference Committee inserted the hurricane-related provision;
 - B. The title, “A Bill for an Act Relating to Public Safety” is not unconstitutionally overbroad;
 - C. The separation of powers doctrine does preclude this court from deciding whether S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, met the three readings requirement of Article III, Section 15 of the Hawai‘i Constitution; and
 - D. Plaintiffs misconstrue the State’s need for legislative flexibility to address unanticipated events and needs without having to call a special session or extend a session.
- I. S.B. No. 2858 Did Not Require Three Readings in the Senate after the Conference Committee Inserted the Hurricane-related Provisions

Plaintiffs contend that S.B. No. 2858 did not pass three readings in the Senate as required by Article III, section 15 of the Hawai‘i Constitution.¹ See Memo. Opp. at 4, 6, 8. Plaintiffs’ contention is without merit.

S.B. No. 2858, as it was originally introduced in the Senate (requiring annual reports on released prisoners), passed three readings² in the

¹ Plaintiffs mistakenly refer to “Act 84” as not having passed three readings. See, e.g., Memo. Opp. at 4, 8. Article III, Section 15 of the Hawai‘i Constitution provides that “[n]o **bill** shall become law until it shall pass three readings in each house on separate days.” (Emphasis added). Accordingly, S.B. No. 2858 required three readings; Act 84 did not.

² “A reading of a bill by title is considered a reading of the bill unless it is specifically required by the constitution that a bill be read at length or in full.” *Mason’s Manual of Legislative Procedure* (“*Mason’s Manual*”), Sec. 720., ¶ 4. at 493 (2010 ed.). The Hawai‘i Constitution does not include such a requirement and the Senate and House Rules provide for a reading by title only. See Rules 49 and 50, Rules of the Senate 2017-2018 at 22, Rules 34, 36.1, 36.2, Rules of the House of Representatives 2017-2018 at 33-34.

Unlike the treatises on which Plaintiffs rely, both the Senate and the House have adopted *Mason’s Manual of Legislative Procedure* (2010 ed.) as their

Senate before it was transmitted to the House. See Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. "E" to the Chun Dec. attached to the Memo. Supp. After S.B. No. 2858, S.D. 2, was transmitted to the House and passed first reading, the House Committee on Public Safety amended the bill by deleting its contents and inserting a hurricane-related provision. See Measure Status for S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Ex. "E" to the Chun Dec. attached to the Memo. Supp. S.B. No. 2858 S.D. 2, H.D. 1, was referred to conference committee where it was amended (S.B. No. 2858 S.D. 2, H.D. 1, C.D. 1). S.B. No. 2858 S.D. 2, H.D. 1, C.D. 1 passed final reading in both houses on May 1, 2018. *Id.*

That S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, with the language that the Conference Committee substituted in the bill (requiring that hurricane safety criteria be considered in the design and construction of new public schools), passed only a final reading in the Senate does not violate the three readings requirement in Article III, Section 15. See *Mason's Manual*, Sec. 722., ¶ 3 (2010 ed.) ("Where a substituted bill may be considered as an amendment, the rule with reference to reading a bill on three separate days does not require the bill to be read three times after substitution"). The bill, S.B. No. 2858, passed three readings in the Senate before it was transmitted to the House and it passed a final reading in the Senate after it was amended in Conference Committee. Additional readings in the Senate were not required. *Id.*

governing authority. See Rule 88, 2017-2018 Rules of the Senate, Rule 59, 2017-2018 Rules of the House of Representatives.

Plaintiffs rely on *Taomae v. Lingle*, 108 Hawai'i 245, 118 P.3d 1188 (2005) as support for their claim that S.B. No. 2858 failed to satisfy the three readings requirement. See Memo. Opp. at 6. Plaintiffs' reliance on *Taomae* is misplaced.

In *Taomae*, the court held that a bill proposing a constitutional amendment was not constitutionally adopted in part because it did not pass the three readings requirement in both houses. However, throughout the decision, the Hawai'i Supreme Court distinguishes legislation proposing a constitutional amendment from "ordinary" legislation like S.B. No. 2858. See *Taomae* at 255, 118 P.3d at 1197 ("critical distinctions between 'enacting' ordinary legislation pursuant to article III, section 14 and 'proposing' a constitution amendment under article XVII are exemplified by the fact that constitutional amendments are governed by a separate article"). According to the court,

Schwab is distinguishable from the case at bar. In *Schwab*, this court considered the requirements embodied in article III alone, *id.* at 30-39, 564 P.2d at 139-44; in this case, we construe the requirements of article III as incorporated in the specific and separate provisions of article XVII. There was no constitutional amendment at issue in *Schwab*; therefore, it is not dispositive in the case at bar.

Id. at 254, 118 P.3d at 1197. In this case, like *Schwab*, the requirements of Article III are at issue, not the provisions of Article XVII as in *Taomae*.

Plaintiffs acknowledge that *Taomae* "concerned a proposed constitutional amendment" but attempt to dismiss that distinction because the

court “construed the three readings requirement in article III, section 15 because the same standards apply.” See Memo. Opp. n. 2 at 6. Given the distinctions the court makes, Plaintiffs’ effort to dismiss those critical differences fails. There is no constitutional amendment at issue here and *Taomae* does not apply.

II. The Title “A Bill for an Act Relating to Public Safety” is not
Unconstitutionally Overbroad

Plaintiffs argue at length that the title, “A Bill for an Act Relating to Public Safety” is unconstitutionally overbroad. See Memo. Opp. at 8-11. Plaintiffs reach this conclusion even though the Hawai‘i Constitution does not specify the detail required for a title or define what is overbroad and they ignore the supreme court’s instruction to apply a liberal construction to the Article III, Section 14 requirement (see *Schwab*, 58 Haw. at 35, 564 P.2d at 141).

The Hawai‘i Supreme Court has made clear that it is not necessary that the title inform the reader of the specific contents of the bill. *Id.* Further, “[i]f no portion of the bill is foreign to the subject of the legislation as indicated by the title, however general the latter may be, it is in harmony with the constitutional mandate.” *Id.*

The title “Relating to Public Safety” is not unconstitutionally overbroad for legislation. S.B. No. 2858, as passed and enacted as Act 84, Session Laws of Hawaii 2018, amended section 107-27, Hawaii Revised Statutes, which sets out the requirements for the design of state buildings to include a new subsection (c). Subsection (c) provides that “The State shall

consider hurricane resistant criteria when designing and constructing new public schools for the capability of providing shelter refuge.” This statutory subsection plainly falls within the general subject of “public safety”.

III. The Separation of Powers Doctrine Does Preclude this Court from Deciding Whether S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, Met the Three Readings Requirement of Article III, Section 15 of the Hawai‘i Constitution

Claiming the State has misread *Schwab*, Plaintiffs contend that “[n]o Hawai‘i case has ever held that a challenge to legislation based on the three readings or title requirements of the Hawai‘i Constitution was nonjusticiable.” See Memo. Opp. at 12. Plaintiffs’ argument is without merit; *Schwab* holds that a challenge to the three readings requirement in Article III, Section 15 is nonjusticiable.

Plaintiffs argue that “[t]his case only concerns the constitutional requirements of article III, sections 14 and 15” and unlike the plaintiffs in *Schwab*, they do not allege that the legislature failed to comply with its own rules. See Memo. Opp. at 13. That distinction fails to make a difference.

Plaintiffs’ claim that S.B. No. 2858, S.D. 2, H.D. 1, C.D. 1, failed to pass three readings as required by Article III, Section 15 necessarily implicates the legislature’s rules. Article III, Section 15 provides that “No bill shall become law unless it shall pass three readings in each house on separate days” but the Hawai‘i Constitution does not define or explain the term “reading”. It is therefore necessary to refer to the Legislative Glossary and the rules for both houses to determine whether the Article III, Section 15 requirement was met.

As defined, a reading is a “vote by the entire House or Senate on a bill or resolution.” See Legislative Glossary, Ex. “K” to the Chun Dec. attached to the Memo. Supp. The rules for both Houses permit a bill to be read by title alone or by its entire text. See, e.g., Rule 35, Rules of the House of Representatives (“a bill may be read by title only, or, on motion, read throughout”). Calling for a vote by bill number and title expedites the floor proceedings but debate prior to the vote is not limited and the entire text of the bill is subject to debate. Pursuant to the rules of the House and the Senate, S.B. No. 2858 was introduced, hearings were held, amendments were made, readings on the floors of the houses were held and the bill was sent to the Governor.

Determining how the three-reading requirement in Article III, Section 15 is met in each of the houses would require that this court inquire into the legislature’s compliance with its procedural rules and is not therefore justiciable. See *Schwab* at 38, 564 P.2d at 143 (“the procedure by which the result is obtained in each house is to be determined by its own rules of proceedings.”) (citation omitted). That Plaintiffs do not expressly challenge the legislature’s compliance with its own rules does not render *Schwab* inapposite.

Plaintiffs also contend that “Unlike *Hussey*, for example, here, there is no “textually demonstrative constitutional commitment of the issue to a coordinate political department.” See Memo. Opp. at 13 (citation omitted). Plaintiffs have ignored the unambiguous language of Article III, Section 12.

Article III, Section 12 of the Hawai'i Constitution provides in relevant part that "Each house shall choose its own officers, **determine the rules of its proceedings** and keep a journal." (Emphasis added). Thus, the Hawai'i Constitution expressly commits or assigns to each house the authority to determine and necessarily, enforce its own procedural rules. Based on the plain and unambiguous language of Article III, Section 12 and the court's decision in *Hussey v. Say*, 139 Hawai'i 181, 384 P.3d 1282, each house of the legislature has exclusive authority to determine its procedural rules and this court may not interfere.

IV. Plaintiffs Misconstrue the State's Need for Legislative Flexibility

According to Plaintiffs, the "State argues that the Hawai'i Constitution unfairly limits the Legislature's ability to deal with emergencies" and the "Hawai'i Constitution makes it impossible for the Legislature to address emergencies". See Memo. Opp. at 14. Plaintiffs have misconstrued the State's need for flexibility.

The State did not argue, and does not contend, that the Hawai'i Constitution "unfairly limits" its ability to deal with emergencies or that the Hawai'i Constitution "makes it impossible" for the legislature to deal with emergencies. Rather, the State simply stated that the "Legislature's rules and proceedings for adopting bills reflect a legislative reality, which is that during the course of a legislative session, priorities change, funding amounts are often not determined until late in a session and emergencies may give rise to immediate, unanticipated needs." See Memo. Supp. at 14. The State further

explained that the deletion and substitution of the contents of bills during a session gives the Legislature the needed flexibility to address unanticipated events and needs without having to call a special session or extend a session.

Id.

Plaintiffs also contend that the State's need for flexibility lacks merit because the legislature could introduce a bill in the middle of a legislative session and pass it as law within a week. *See* Memo. Opp. at 14. Plaintiffs' simplistic generalization overlooks Article III, Section 12 of the Hawai'i Constitution.

Article III, Section 12 provides in relevant part:

By rule of its proceedings, applicable to both houses, each house shall provide for the date by which all bills to be considered in a regular session shall be introduced.

Thus, the Hawai'i Constitution mandates that each house shall set a deadline by which all bills must be introduced and recognizes the need for a schedule and a bill introduction cut-off. Depending on the schedule and bill cut-off date, Plaintiffs' claim that the legislature could introduce and pass a bill in week is simply wrong.

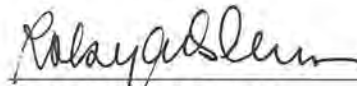
The State's need for legislative flexibility is not "irrelevant" as Plaintiffs claim. *Id.* The need for flexibility reflects the reality of legislation and the need to respond to changing priorities and unanticipated emergencies.

V. Conclusion

For the foregoing reasons as well as, those set forth in the Memorandum in Support, the State respectfully urges the court to grant summary judgment in favor of the State and to dismiss Plaintiffs' claims. There is no genuine issue of material fact and the State is entitled to judgment as a matter of law.

DATED: Honolulu, Hawai'i, November 7, 2018.

RUSSELL A. SUZUKI
Attorney General



PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAII

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

CERTIFICATE OF SERVICE

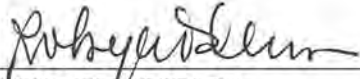
CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the
forgoing document was duly served by U.S. Mail, postage prepaid, to the
following party listed below:

ROBERT BRIAN BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawaii 96813

Attorney for Plaintiffs

DATED: Honolulu, Hawaii, November 7, 2018.



PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAII

RUSSELL A. SUZUKI 2084
Attorney General

PATRICIA OHARA 3124
ROBYN B. CHUN 3661
Deputy Attorneys General
Department of the Attorney General,
State of Hawai'i
425 Queen Street
Honolulu, Hawai'i 96813
Telephone: (808) 586-0618
Facsimile: (808) 586-1372
Email: robyn.b.chun@hawaii.gov

Attorneys for Defendant
STATE OF HAWAI'I

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

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N. Anaya
N. ANAYA
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IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

v.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC ^{SR}

STIPULATION TO CONTINUE
HEARING ON DEFENDANT STATE
OF HAWAII'S MOTION FOR
SUMMARY JUDGMENT FILED ON
OCTOBER 9, 2018 AND HEARING
ON PLAINTIFFS' CROSS-MOTION
FOR SUMMARY JUDGEMENT FILED
ON OCTOBER 25, 2018;
CERTIFICATE OF SERVICE

NEW HEARING:

Date: ~~November 13, 2018~~ 12/19/2018

Time: 3:00 p.m.

Judge: Honorable Gary W.B. Chang

STIPULATION TO CONTINUE HEARING ON
DEFENDANT STATE OF HAWAII'S MOTION
FOR SUMMARY JUDGMENT FILED ON OCTOBER 9, 2018
AND HEARING ON PLAINTIFFS' CROSS-MOTION
FOR SUMMARY JUDGEMENT FILED ON OCTOBER 25, 2018

2018 NOV -8 PM 4:50

FIRST CIRCUIT COURT
STATE OF HAWAII
14TH DIVISION

Pursuant to Rule 6, Hawaii Rules of Civil Procedure and Rule 19, Rules of the Circuit Courts, Plaintiffs League of Women Voters of Honolulu and Common Cause and Defendant State of Hawai'i through their respective counsel stipulate and agree as follows:

1. Whereas Defendant State of Hawai'i filed a Motion for Summary Judgment on October 9, 2018;

2. Whereas Plaintiffs League of Women Voters of Honolulu and Common Cause filed a Cross-Motion for Summary Judgment on October 25, 2018;

3. Whereas, the State of Hawaii's Motion for Summary Judgment was set for hearing on November 13, 2018 at 3:00 p.m. before the Honorable Gary W. B. Chang;

4. Whereas, the League of Women Voters of Honolulu and Common Cause's Cross Motion for Summary Judgment was set for hearing on December 5, 2018 at 3:00 p.m. before the Honorable Gary W. B. Chang;

5. Whereas, the Legislature intends to file an amicus curiae brief in this case and will seek leave to do so;

6. Whereas, the parties agree that it will further the interest of judicial economy to have the Motion for Summary Judgment and the Cross-Motion for Summary Judgment heard at the same time;

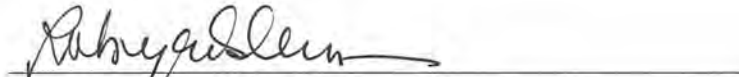
NOW THEREFORE, the parties agree to continue the hearings for the Motion for Summary Judgment and the Cross-Motion for Summary Judgment to December 19, 2018 at 3:00 p.m. before the Honorable Gary W. B. Chang.

Dated: Honolulu, Hawai'i, _____.



R. BRIAN BLACK
Attorney for Plaintiffs
League of Women Voters of Honolulu
And Common Cause

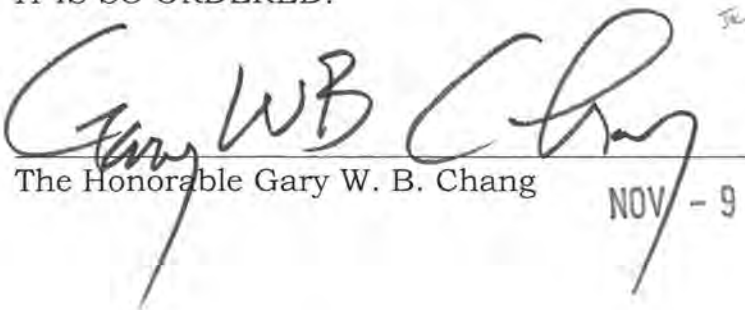
Dated: Honolulu, Hawai'i, November 8, 2018.



ROBYN B. CHUN
Deputy Attorney General
Attorney for Defendant State of Hawai'i

Dated: Honolulu, Hawai'i, NOV - 8 2018.

IT IS SO ORDERED:



The Honorable Gary W. B. Chang

NOV - 9 2018

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

CERTIFICATE OF SERVICE

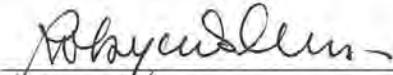
CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the
forgoing document was duly served by U.S. Mail, postage prepaid, to the
following party listed below:

ROBERT BRIAN BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawaii 96813

Attorney for Plaintiffs

DATED: Honolulu, Hawaii, November 8, 2018.



PATRICIA OHARA
ROBYN B. CHUN
Deputy Attorneys General

Attorneys for Defendant
STATE OF HAWAII

COLLEEN HANABUSA 2105
3660 Waokanaka Street
Honolulu, Hawai'i 96817
Telephone: (808) 595-3388
Email: hanac841@yahoo.com

Attorney for HAWAII STATE LEGISLATURE

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2018 NOV 27 PM 3:10

1. MIMI
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC *JK*

**MOTION FOR LEAVE TO FILE A
MEMORANDUM OF BEHALF OF THE
HAWAII STATE LEGISLATURE AS
AMICUS CURIAE IN SUPPORT OF
DEFENDANT STATE OF HAWAII'S
MOTION FOR SUMMARY JUDGMENT
FILED ON OCTOBER 9, 2018 AND IN
OPPOSITION TO PLAINTIFFS' CROSS-
MOTION FOR SUMMARY JUDGMENT
FILED ON OCTOBER 25, 2018;
MEMORANDUM IN SUPPORT OF
MOTION; EXHIBIT "A"; NOTICE OF
HEARING OF MOTION; CERTIFICATE
OF SERVICE**

HEARING:

Date: December 19, 2018

Time: 3:00 pm

Judge: The Honorable Gary W. B. Chang

Trial Date: None

**MOTION FOR LEAVE TO FILE A MEMORANDUM ON BEHALF OF THE
HAWAII STATE LEGISLATURE AS AMICUS CURIAE IN SUPPORT OF
DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT
FILED ON OCTOBER 9, 2018 AND IN OPPOSITION TO PLAINTIFFS' CROSS-
MOTION FOR SUMMARY JUDGMENT FILED ON OCTOBER 25, 2018**

2018 NOV 27 PM 2:45
FIRST JUDICIAL CIRCUIT
STATE OF HAWAII
14TH DIVISION


COMES NOW The Hawai'i State Legislature ("the Legislature"), by and through its undersigned counsel and hereby respectfully moves this Court for leave to file the proposed MEMORANDUM ON BEHALF OF THE HAWAII STATE LEGISLARUE AS *AMICUS CURIAE* IN SUPPORT OF DEFENDANT STATE OF HAWAI'I'S MOTION FOR SUMMARY JUDGMENT FILED ON OCTOBER 9, 2018 AND IN OPPOSITION TO PLAINTIFFS' CROSS-MOTION FOR SUMMARY JUDGMENT FILED ON OCTOBER 25, 2018 (the "Amicus Brief"), attached hereto as Exhibit "A."

On its face, Plaintiffs' Complaint raises a challenge to what is called "gut and replace" of legislation. However, what is at stake is the separation of powers between the judicial and the legislative branches of government. That is to say, for this Court to even address the issue raised, it must first find it to be justiciable. The separation of powers has long stood for the proposition that the judiciary will not interfere with the affairs of the Legislature absent a constitutional mandate or a deprivation of a constitutionally protected right. The essence of Plaintiffs' Complaint is a challenge to the rules of the Legislature. Rules which the Constitution grants to each house the right to determine and enforce.

The interest of the Hawai'i State Legislature is in protecting its Constitutional role as one of the co-equal branches of government. The Attorney General is speaking for the State of Hawai'i. However, the Legislature believes only it can present to this Court, its position as the Constitution mandated co-equal branch of government. Granting this Motion will assist this Court in its decision making on this matter.

Thus, the Legislature respectfully requests leave of this Court to file the Amicus Brief as attached as Exhibit "A," hereto.

This Motion is brought for good cause and pursuant to Rule 7 of the *Hawai'i Rules of Civil Procedure* and Rule 7.2 of the *Rules of the Circuit Courts*, and based on the memorandum in support, the exhibit attached, the records and files herein and further arguments which may be made at the hearing.

DATED: Honolulu, Hawai'i, NOV 27 2018


COLLEEN HANABUSA
Attorney for HAWAII STATE LEGISLATURE

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAI'I

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAI'I,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

**MEMORANDUM IN SUPPORT OF
MOTION**

Judge: The Honorable Gary W. B. Chang

Trial Date: None

MEMORANDUM IN SUPPORT OF MOTION

This Memorandum is in support of the Hawai'i State Legislature's motion for leave to file a memorandum on its behalf as *Amicus Curiae* in support of Defendant State of Hawai'i's motion for summary judgment and in opposition to Plaintiffs' cross-motion for summary judgment. The purpose of this memorandum is to ask this Court to recognize that leave has been granted when the Hawai'i State Legislature have sought to file memoranda as *amicus curiae*.

The most recent example is in the case of *Nelson v. Hawaiian Homes Commission*, (Civil No. 07-1-1663-08 JHC) first granted on March 17, 2016.¹

¹ The Legislature sought leave twice before the Circuit Court upon remand and was granted leave. The first was in Support of State Defendants' Motion for Reconsideration of, or to Alter or Amend, the

Prior to this time, the State Legislature was granted leave to file amicus briefs before the Hawai'i Supreme Court. One case is *Taomae v. Lingle*, 108 Hawai'i 245, 118 P.3d 1188 (2005). The Hawai'i Supreme Court also granted the Legislature leave to file after the Court had issued its decision and in support of the State's requested reconsideration of the Supreme Court's decision in *Sierra Club v. Dep't of Transportation*, No. 29035, 2009 WL 1567327 (May 13, 2009).²

In addition, when State Senators filed a Writ of Mandamus based upon their belief that their rights to advise and consent to the appointment of members of the Board of Regents was being violated by the executive branch of the State, the Hawai'i Supreme Court not only granted standing but also found in favor of the Senators. *Hanabusa v. Lingle*, 119 Hawai'i 341, 348, 198 P.3d 604, 611 (2008).

Based upon the fact that the Supreme Court and the Circuit Court have granted leave to the Legislature to file amicus briefs, the Legislature respectfully request that this Court also grants this motion for leave.

DATED: Honolulu, Hawai'i, _____

NOV 27 2010

COLLEEN HANABUSA

Attorney for the HAWAII STATE LEGISLATURE

Judgment and Order Filed on December 21, 2015, which was filed on January 7, 2016. The second was in Opposition to Plaintiffs' Motion for Reconsideration which was filed on March 22, 2016. Leave was granted by Judge Castangetti in both circumstances.

² This case is better known as the Superferry decision.

COLLEEN HANABUSA 2105
3660 Waokanaka Street
Honolulu, Hawai'i 96817
Telephone: (808) 595-3388
Email: hanac841@yahoo.com

Attorney for HAWAII STATE LEGISLATURE

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

**MEMORANDUM OF BEHALF OF THE
HAWAII STATE LEGISLATURE AS
AMICUS CURIAE IN SUPPORT OF
DEFENDANT STATE OF HAWAII'S
MOTION FOR SUMMARY JUDGMENT
FILED ON OCTOBER 9, 2018 AND IN
OPPOSITION TO PLAINTIFFS' CROSS-
MOTION FOR SUMMARY JUDGMENT
FILED ON OCTOBER 25, 2018**

HEARING:

Date: _____

Time: _____

Judge: The Honorable Gary W. B. Chang

Trial Date: None

**MEMORANDUM ON BEHALF OF THE
HAWAII STATE LEGISLATURE AS *AMICUS CURIAE* IN SUPPORT OF
DEFENDANT STATE OF HAWAII'S MOTION FOR SUMMARY JUDGMENT
FILED ON OCTOBER 9, 2018 AND IN OPPOSITION TO PLAINTIFFS' CROSS-
MOTION FOR SUMMARY JUDGMENT FILED ON OCTOBER 25, 2018**

EXHIBIT "A"

I. INTEREST OF *AMICUS CURIAE*

Article III of the Constitution of the State of Hawai'i (hereinafter "*Constitution*") vests the legislative powers of the State in the two houses of the legislature; in other words, the power to enact laws is with the Legislature. To exercise this responsibility, the *Constitution* empowers each house with rights of self-governance and the determination of its process to adopt legislation.¹ Each house enacts its own rules and procedures and need only agree on deadlines where the *Constitution* requires them to do so.² Thus the Legislature has a strong interest in protecting its governance and rules and procedures as they adopted in compliance with the *Constitution*.

The Legislature's interest as *Amicus Curiae* is that it cannot stand by silently as the Plaintiffs call upon a co-equal branch of government, the Judiciary, to interfere with the Legislature's constitutionally empowered self-governance. Plaintiffs' Complaint filed on September 5, 2018, seeks to have this Court declare void Act 84 of the 2018 Session Laws; because they contend the process by which it was adopted was unconstitutional. Specifically

¹ It is important to note that the Constitution empowers **each house** to "determine the rules of its proceedings." Section 12 article III of the *Constitution*. This means and is in fact the case that the House and the Senate have different rules as to how bills are heard and whether actual testimony must be taken at various steps. The houses did adopt their respective rules as relevant parts are attached as Exhibits "A" and "B" to Defendant State of Hawaii's Motion for Summary Judgment. In addition, both houses adopted *Mason's Manual of Legislative Procedure, 2010* for the 2017-2018 Legislative Sessions. It is Rule 88 of the Rules of the Senate and Rule 59 of the Rules of the House of Representatives.

² The Constitution requires that the houses provide for dates "by which all bills to be considered in a regular session shall be introduced;" but does not mandate said dates. Therefore, the houses are at liberty to modify or amend whatever dates they may have agreed to. *Id.* It is also of importance the Section 12 article III of the *Constitution* requires that what is "open to the public" is the meeting for decision making purposes of a committee. *Id.*

Plaintiffs' claim Sections 14 and 15 of article III of the *Constitution* were violated in Act 84's enactment.

It is the position of the Legislature that it acted within their authority under the *Constitution*. This issue is one that has been debated in prior Constitutional Conventions and the Delegates to the respective Constitutional Conventions were clear in their belief that the provisions debated ensured flexibility to the Legislature.

The strong interest of the Legislature is to protect its constitutional prerogative of determining its own rules of proceeding to enact laws of the State. It is the Legislature's role in the separation of powers of Hawai'i's governmental structure. The *Constitution* also protects the Legislature's rules, authorities, along with its custom and practices.

II. MAIN ISSUE IS WHETHER THIS COURT BY REVIEWING THE LEGISLATURE'S PROCEDURE IS VIOLATING THE SEPARATION OF POWERS DOCTRINE.

The essence of Plaintiffs' Complaint is that when the Legislature engages in what is referred to as a "gut and replace" it violates the Constitution of the State of Hawai'i. Plaintiffs rely specifically on Section 14 article III of the *Constitution* for the proposition that "[e]ach law shall embrace but one subject, which shall be expressed in its title." Plaintiffs' Complaint ¶12. And, Section 15 article III of the *Constitution* for the proposition that "[n]o bill shall become law unless it shall pass three readings in each house on separate days." Plaintiffs' Complaint ¶13.

It is established law in this jurisdiction that the courts will not interfere with the actions of the Legislature which are presumed constitutional, absent a clear violation of a constitutional provision. The Legislature respectfully asks that this Court recognizes that to find

for Plaintiffs will be to violate the clear and distinct separation of powers set forth in the *Constitution*.

III. ANALYSIS

A. The Legislature's Enactments Are Presumptively Constitutional.

The Hawai'i Supreme Court has set a very high standard to successfully challenge any law enacted by the Legislature. The Court has consistently held that "every enactment of the legislature is presumptively constitutional and a party challenging the statute has the burden of showing unconstitutionality beyond a reasonable doubt." *Schwab v. Ariyoshi*, 58 Hawai'i 25, 31 564 P.2d 135, 139 (1977). Other authorities cited are *State v. Kahalewai*, 56 Hawai'i 481, 541 P.2d 1020 (1975) and *Bishop v. Mahiko*, 35 Hawai'i 608 (1940). The *Schwab* court went on to say that the violation alleged there of the "subject-title requirements of the State Constitution" must be "plain, clear, manifest, and unmistakable." *Id.*

Plaintiffs' heavy reliance upon *Taomae v. Lingle*, 108 Hawai'i 245, 118 P.3d 1188 (2005) is misplaced. The Hawai'i Supreme Court made very clear that *Schwab* was distinguishable from the facts of *Taomae* because "[i]n *Schwab*, this court considered the requirements embodied in article III alone . . . in this case, we construe the requirements of article III as incorporated in the specific and separate provisions of article XVII." *Taomae*, 108 Hawai'i at 254, 118 P.3d at 1197.³

³ The Hawai'i Supreme Court stated two reasons for why they found a violation of the *Constitution*:

First, the proposed amendment was not titled as a constitutional amendment pursuant to article XVII. Second, the proposal to amend the constitution was not subjected to three readings in each house as article XVII, section 3 requires.

Plaintiffs allege violations of Sections 14 and 15 of article III of the *Constitution*.

Schwab is clearly the dispositive authority; and the Plaintiffs have failed to meet their burden.

B. In Analyzing Section 14, article III of the Constitution, The Governing Word is “law” And Requires That The Law Contain One Subject And It Be Expressed In The Title.

Many of the authorities relied upon by Plaintiffs were decided prior to Statehood and the adoption of the 1950 Constitution. *Schwab* is the dispositive precedent for this Complaint. The 1950 Constitutional Convention proposed the language of Section 14 article III which states, “[n]o law shall be passed except by bill. Each **law** shall embrace but one subject, which shall be **expressed in its title**.” (emphasis added). In *Schwab*, the Court was faced with the title, “A Bill for an Act Making Appropriations for Salaries and Other Adjustments, Including Cost Items of Collective Bargaining Agreements Covering Public Employees and Officers.” The original intent was that it ratify the salary increases negotiated through collective bargaining. *Schwab*, 58 Hawai‘i at 27, 564 P.2d at 137. When it was enacted, the law contained four parts and covered all employees’ and officers’ salaries, not merely those that were collectively bargained. *Id.* 58 Hawai‘i at 27-28, 564 P.2d at 137-138. The Hawai‘i Supreme Court in finding no constitutional violation stated:

We hold that a liberal construction of this constitutional requirement, . . . leads to no other conclusion but that the title to Act 58 fairly indicates to the ordinary mind the general subject of the act. . . . It is true that the provision of the Organic Act ‘that each law shall embrace but one subject, which shall be expressed in its title’ should be liberally construed, and that an **act** of the legislature should not be held void on the ground that it conflicts with this provision, except in a clear case.

Id., 108 Hawai‘i at 251, 118 P.2d at 1194. The Hawai‘i Supreme Court went on to distinguish Section 14 article III from its holding as follows, “[w]hile the interpretation of article III, section 14 is appropriate when applied to ordinary legislation, it must be remembered that article XVII specifically governs constitutional amendments.” *Id.*, 108 Hawai‘i at 254, 118 P.2d at 1197. This was in response to the defendants’ argument that all is required is a single subject in the title under Section 14 article III. For *Taomae* to apply this must involve a constitutional amendment.

Id., 58 Hawai'i at 34, 564 P.2d at 141 (emphasis added).⁴

The *Constitution* requires that a law be passed by bill. This is not a point of contention. The issue is whether the **law** embraces but one subject which is expressed in its title. Thus, the point of contention is whether the title "Relating to Public Safety" covers the subject of this law. The general rule of statutory construction applies here as well. That is to say if the words are clear and unambiguous, they are construed as written. *Watland v. Lingle*, 104 Hawai'i 128, 140, 85 P.3d 1079, 1091 (2004). Thus, Section 14 article III is saying that the **law** shall embrace one subject that is expressed in the law's title. It does not say that the bill as originally proposed or amended; but as it is enacted into law. There can be no doubt that the subject of SB 2858 SD2 HD1 CD1 as Act 84 (2018) is covered under Public Safety.

An indication as to the liberal interpretation of the requirements even under Section 45 of the Organic Act is the case of *Gallas v. Sanchez*, 48 Hawai'i 370, 376, 405 P.2d 772, 776 (1965). The challenge was to whether the one subject in the title was violated. The Supreme Court adopted the lower court's decision and stated, "[a]lthough the title of Act 207 [relating to public service] does not refer with particularity to the amendments therein, it clearly refers to the general subject." *Id.* The Supreme Court found no violation.

Moreover, there is no prohibition in the *Constitution* that titles cannot be broad. In fact, the Legislature has used broad titles in order to ensure that the subject of the law is found expressed in said title.⁵

⁴ The emphasis was placed in this citation because the *Schwab's* Court analysis was as to when the bill became law as Act 58. The Constitutional provision is speaking to the final law and that what is contained therein fits the one subject and expressed in its title. There is no doubt that this is satisfied in Act 84 (2018).

⁵ The Court is asked to take judicial notice of the fact that all Bills which became law (Acts) are in the public domain and listed as "2018 List of Acts" on the Legislature's Website,

C. The Constitutional Convention Committee Reports and Debates Clarify That Amendments To A Bill, Including A Substitution Does Not Trigger Three Reading Process To Commence Again.

The Hawai'i Supreme Court has stated that the Constitution must be construed "with due regard to the intent of the framers and the people adopting it." *Hanabusa v. Lingle*, 105 Hawai'i 28, 31, 93 P.3d 670, 673 (2004). The intent is found in the "instrument itself." *Id.* citing *Blair v. Harris*, 98 Hawai'i 176, 178-179, 45 P.3d 800, 800-801 (2002).

The Constitutional Convention of 1968 addressed Section 16 article III of the *Constitution*. Committee of the Whole Report No. 12 stated that it had fully debated the Standing Committee Report No. 46 and reports and recommends that Section 16⁶ be adopted. The rationale was:

1. Requiring that a bill shall have been printed in the form to be passed on final reading and made available to the members of a house for at least twenty-four hours before it shall pass final reading in that house; the phrase "form to be passed" means the form in which a bill is either (a) passed on third reading in each house, (b) concurred to by one house after

www.capitol.hawaii.gov/. A review of the bill titles that have become law, clearly supports the proposition that most titles are general or broad and would probably be considered unconstitutional by Plaintiffs. For example, there are: 7 Bills entitled "Relating to Health;" 4 Bills are "Relating to Environmental Protection;" 4 Bills are "Relating to Agriculture;" 4 Bills are "Relating to Taxation;" 3 Bills are Relating to the Environment;" 3 Bills are "Relating to Education;" 3 Bills are Relating to "Medical Cannabis," 3 Bills "Relating to Non General Funds," 3 Bills "Relating to Public Safety," 2 Bills "Relating the State Budget." There are other duplicative titles of Bills or general titles which are now laws in this State.

⁶ Section 16, in relevant part, read as follows:

No bill shall become law unless it shall pass three readings in each house on separate days. No bill shall pass final reading in each house unless in the form to be passed it shall have been printed and made available to the members of that house for at least twenty-four hours . . .

This provision is now Section 15, article III of the *Constitution*.

amendments have been made by the other, or (c) passed by both houses after a conference committee has agreed upon it; . . .

I *Proceedings of the Constitutional Convention of Hawaii of 1968* at 347 (1973).

The Standing Committee on Legislative Powers and Functions Report No. 46 referenced in Committee of the Whole Report No. 12, makes clear that it believed the twenty-four hour rule before the final reading is what assures the members of the Legislature and the public the opportunity for informed action. *Id.* at 216. The examples listed as to how the Legislature gets to the “form to be passed” anticipates amendments and changes in the bill’s contents and can be made by “one house,” or after a conference committee. Act 84 in its final form is a result of a Conference Committee Draft.

The debates among the delegates to the 1968 Constitutional Convention clarified that it was anticipated amendments and actual substitutions could occur without triggering the need to begin the three reading process. Relevant portions of the debates are:

DELEGATE HUNG WO CHING⁷: . . . The original intent of a bill having passed one house can be substantially changed in legislative conferences. A bill in final form can then pass third reading in both houses without a reasonable opportunity for members of the legislature and the public for review in its final form. To correct this situation, our proposal will require that a bill be printed in its final form and be made available to the legislators and to the public for at least 24 hours before final passage. It is the committee’s considered judgment that the substantial contribution which can be made by this rule through increasing awareness and understanding of the proposed legislation decisively overrides the possible problems in its adoption might create.

. . .

DELEGATE KAUHANE: . . . I understand that the bill must pass three readings before the bill can actually become law, or have the semblance of becoming law with the signature of the governor. My concern here on the

⁷ Mr. Hung Wo Ching was the Chair of the Committee on Legislative Powers and Functions.

passage of the bill on three readings—one, is this, Mr. Chairman, does the reading of the bill by title on the third day constitute the bill have been read completely throughout?

...

DELEGATE DONALD CHING: . . . [T]he bulk of the amendments would come at the time of the second reading. In fact, all of the amendments should come at the time of the second reading on the bill. Then after the bill has been fully discussed on second reading by either house it shall then be printed up in the final amended form; be printed, be distributed to the members of that house and to the public, and then 24 hours shall elapse before final reading shall be taken. . . . Now, if it comes back from conference we have no problem there. This is only on third reading in either house.

...

DELEGATE KAUHANE: I just heard the statement when we go to conference, well, we'll have no problem there. This is where the problem exists, when we go to conference.

My next questions, Mr. Chairman, where a bill has been substituted for the original bill, the original bill having been read once, have passed first and second reading, and possibly third reading, and the bill is referred to conference because of a disagreement, it becomes a conference-substituted bill for the original bill in some instances; will the substituted bill be required to pass three readings because of a complete change of the substance of the bill?

...

DELEGATE DONALD CHING: . . . The proposed amendment will not change the manner in which a bill is handled as under the present Constitution and the present legislative procedures as far as the conference committee draft is concerned. What it will mean is that the only change that will be brought about is that after the conference committee has deliberated and come up with its conference draft, that draft will have to be printed and lay on the table for 24 hours or made available to the public for 24 hours before either house can act on it. That's the only change.

II Proceedings of the Constitutional Convention of Hawaii of 1968, Committee of the Whole Debates (1973) at 145-146 (emphasis added).

The debates made clear that the intent of the framers of the Constitution was to reaffirm that the practice of the Legislature that if a new bill is substituted, it will not trigger a requirement that the three readings commence again.

D. The Mandate That Bills In Its Final Form Be Printed and Lay For 48 Hours Is To Ensure The Legislators and the Public Know What Is Being Voted On.

The then 24 (now 48) hour rule is what provides the Legislators and the public the opportunity to know what the bill contains.⁸ Plaintiffs do not allege the houses failed to comply with the “printed copies” of the bill in its final form for at least “forty-eight hours”⁹ prior to the final reading.

From the above referenced Constitutional Convention Debates, it is clear that the intent was not to change the practice of amending bills which could include its total substitution and three readings will not be required. Thus, the notification requirement was enacted for purposes of providing Legislators and the Public the opportunity to know what the final form of the bill contains.¹⁰

⁸ Plaintiffs allege that the changes to SB 2858 SD2 HD1 CD1 did not afford the public adequate time to testify against the bill. They state that the entities who testified opposed the amendments and requested “that the bill revert to its original subject matter.” Plaintiffs’ Memorandum in Support of its Motion at 11-12. The Legislature respectfully request that this Court take notice of SB 2861 SD2 HD1 CD1 which subsequently became law as Act 212 (2018). This bill was so similar to SB 2858 that a recommendation was the bills be consolidated into one. Act 212 was also a Bill entitled, “Relating to Public Safety.”

⁹ It was the 1978 Constitutional Convention which increased the period before the final vote can be taken to 48 hours. Though Plaintiffs do not concede that technological changes and the ability to track bills on the internet has changed the ability of both Legislators and the general public to be aware what is transpiring, the fact is, it does. The description of the bills’ contents changes as amendments are made. It is a better informed constituency due to the changes made by the Legislature on the use of the internet.

¹⁰ Also, Plaintiffs’ authorities in support of their arguments that Section 14, article III was violated, predated the 1968 Constitutional Convention which required the printing of the bill in

E. Section 12 of Article III of the Constitution Empowers Each House To Enact Its Own Rules of Proceedings And Its Operations Is A Non Justiciable Issue.

Section 12 article III of the *Constitution* provides in relevant part “[e]ach house shall choose its own officers, **determine the rules of the proceedings** and keep a journal.” (emphasis added). The recent case of *Hussey v. Say*, 139 Hawai‘i 181, 384 P.3d 1282 (2016) addressed the first sentence of Section 12 article III of the *Constitution*. The Hawai‘i Supreme Court sustained the dismissal of the *Quo Warranto* complaint against Representative Say on the basis that it was a “non justiciable issue.” The Court stated that “justiciability” was to ensure that the co-equal branches of government do “not intrude into areas committed to the other branches of government.” It looks to whether the Constitution committed the issue to another political department. *Id.*, 139 Hawai‘i at 188, 384 P.3d at 1289. The Court stated in *OHA v. Yamasaki*, 69 Hawai‘i 154, 169, 737 P.2d 446, 455 (1987), “a textually demonstrable constitutional commitment of the issue to a coordinate political department.” In *Hussey*, the issue was whether Representative Calvin Say was qualified to be seated as a member of the House of Representatives. The Court ruled that due to the language of Section 12 of article III, it was a non justiciable issue because the *Constitution* had committed the issue to the Legislative branch of government.¹¹

its final form and laying it over for 24 hours. In that Section 14 addresses the subject matter and the expressed title of the law, the concerns of the Plaintiffs should be alleviated because the 1968 amendment requires the provision of the bill in final form and laying it over. *Schwab* was decided in 1977 and it stands for the proposition that to sustain the violation of a subject-title requirements of the State Constitution” it must be “plain, clear, manifest, and unmistakable.” *Id.*, 58 Hawai‘i at 31 564 P.2d at 139. Plaintiffs fail to meet their burden.

¹¹ Section 12 article III of the *Constitution* provides:

Each house shall be the judge of the elections, returns and qualifications of its own members and shall have, for misconduct, disorderly behavior or neglect of duty of any member, power to punish such member by censure, or upon a two-

This should also be the decision of the Court as to the “rules of proceedings” which has been committed to the co-equal branch of government.

The Legislature has complied with the *Constitution* and determined and passed its respective rules of proceedings.

The Rules of both houses provide for three readings of the bill. The First readings in both houses are by title only.¹² Likewise, the respective Rules provide that the Second and Third or Final readings of the bill can be by title only.¹³

Both houses, in accordance with Section 12, article III of the *Constitution* have adopted their respective Rules of their houses and in addition, as identified in footnote 1 above, *Mason’s Manual of Legislative Procedure, 2010* for the 2017-2018 Legislative Session, hereinafter “*Mason’s*.”

Under the provisions of *Mason’s*, specifically Sec. 722 entitled **Three Readings of Amended Bills**, it provides in relevant parts as follows:

1. **The constitutional requirement that bills be read three times is not generally interpreted to apply to amendments**, so that bills are required to be read the specified number of times after amendment, . . .
2. When a bill that has been passed by one house has **been materially amended** in the other, and there passed as amended, it has been held that the constitutional provisions with reference to reading three times **does not require the bill as**

thirds vote of all the members to which such house is entitled, by suspension or expulsion of such member.

¹² Rule 48 of the Senate and Rule 34 of the House of Representative. State Ex. “A” at 21 and State Ex. “B” at 33.

¹³ Rules 49 and 50 of the Senate and Rules 35 and 36 of the House of Representatives. State Ex. “A” at 22 and State Ex. “B” at 33-34. Note that for Third or final readings, both houses require the final form to layover for 48 hours.

amended to be read three times in the house of origin before concurring in the amendments of the other house. . . .

3. **Where a substituted bill may be considered as an amendment, the rules with reference to reading a bill on three separate days does not require the bill to be read three times after substitution.** One house may substitute an identical bill of its own for the bill of the other house without rereading of the substitute bill being required. . . .

5. A bill that is **amended or redrafted by a conference committee is not a new bill in the sense that it requires three readings thereafter.**

Mason's at 494-495 (emphasis added).

As with *Hussey*, the decision here should be that how the co-equal branch of government has complied with its own rules should be determined by the houses.

Schwab is also instructive as to the Legislature's Rules. It concedes that the threshold issue is whether it is "justiciable." *Id.*, 58 Hawai'i at 37, 564 P.2d at 142-143. The Court reminds itself that:

As a general rule, the role of the court in supervising the activity of the legislature is confined to seeing that the actions of the legislature do not violate any constitutional provision. We will not interfere with the conduct of legislative affairs in absence of a constitutional mandate to do so, or unless the procedure or result constitutes a deprivation of constitutionally guaranteed rights.

Id.

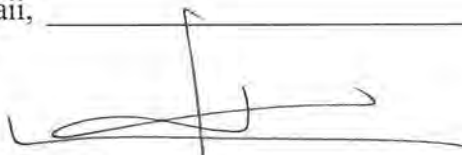
Plaintiffs here do allege that they are not challenging the Rules of the Legislature but given the intent of the framers of the *Constitution* and the flexibility given to the Legislature, it is the Legislature's Rules which is the subject of Plaintiffs' challenge. Without any doubt, the issue is non justiciable.¹⁴

¹⁴ At page 14 of the Defendant State's memorandum in support of its motion for summary judgment, the State references SB 192 SD1 HD1 CD1. This Court is asked to take judicial notice of the evolution of this "Relating to State Budget." It began as a general appropriation matter and was enacted in its final form to transfer tobacco funds for disaster relief on Kauai and East Oahu.

IV. CONCLUSION

For the foregoing reasons, the Hawai'i State Legislature respectfully request that this Court grants Defendant State of Hawai'i's Motion for Summary Judgment and deny Plaintiffs' Cross-Motion for Summary Judgment on the basis that the Legislature is acting within its Constitutionally granted powers, the issues raised in the Complaint are non justiciable and Plaintiffs have failed to meet their burden.

DATED: Honolulu, Hawaii, _____

A handwritten signature in black ink, appearing to read 'Colleen Hanabusa', is written over a horizontal line.

COLLEEN HANABUSA

Attorney for the HAWAII STATE LEGISLATURE

Under Plaintiffs' arguments, this important legislation should have triggered additional 3 readings in both houses. It could not be done without extending the session. It is also important to note that a flaw in Plaintiffs arguments on flexibility at page 14 of their memorandum in support of their cross-motion for summary judgment is that a new bill could pass in a week. If a new bill is introduced, it would have to receive 3 readings in one house and cross to the next house for 3 readings before it could be law. The Plaintiffs are arguing that in the event of an emergency, committee hearings are not necessary for the public but the *Constitution* requires decision making to be public. It cannot be the contention that if brought before this Court, the Court will determine which bills are worthy and which are not. This is clearly a non justiciable act. Otherwise this Court could be inviting lawsuits after the adjournment of each legislative session challenging bills that were amended in some manner.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF
HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 18-1-1376-09 GWBC

NOTICE OF HEARING OF MOTION

Judge: The Honorable Gary W. B. Chang

Trial Date: None

NOTICE OF HEARING OF MOTION

TO: ROBERT BRIAN BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813

Attorney for Plaintiffs

RUSSELL A. SUZUKI
Attorney General for the State of Hawai'i

PATRICIA OHARA, ESQ.
ROBYN B. CHUN, ESQ.
Deputy Attorneys General
425 Queen Street
Honolulu, Hawai'i 96813

Attorneys for Defendant State of Hawai'i

NOTICE IS HEREBY GIVEN that the foregoing Motion, shall come on for hearing before the Honorable Gary W. B. Chang, Judge of the above entitled Court, Circuit Court of the First Circuit, in his courtroom at 777 Punchbowl Street, Honolulu, Hawai 96813, on Wednesday, December 19, 2018, at 3:00 p.m., or soon thereafter as counsel may be heard.

DATED: Honolulu, Hawai'i, NOV 7 2018, 2018.



COLLEEN HANABUSA

Attorney for the HAWAII STATE LEGISLATURE

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STATE OF HAWAII

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HONOLULU and COMMON CAUSE,

Plaintiffs,

vs.

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CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I hereby certify the on this date a true and correct copy of the foregoing document
was duly served by hand delivery on the following parties listed below:

ROBERT BRIAN BLACK, ESQ.
Civil Beat Law Center for the Public Interest
700 Bishop Street, Suite 1701
Honolulu, Hawai'i 96813

Attorney for Plaintiffs

RUSSELL A. SUZUKI
Attorney General for the State of Hawai'i

PATRICIA OHARA, ESQ.
ROBYN B. CHUN, ESQ.
Deputy Attorneys General
425 Queen Street
Honolulu, Hawai'i 96813

Attorneys for Defendant State of Hawai'i

NOV 27 2018

DATED: Honolulu, Hawai'i, _____, 2018.


COLLEEN HANABUSA

Attorney for the HAWAII STATE LEGISLATURE

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

LEAGUE OF WOMEN VOTERS OF)	CIVIL	NO.	18-1-1376
HONOLULU AND COMMON CAUSE,)			
)			
Plaintiffs-Appellants,)			
)			
vs)			
)			
STATE OF HAWAII,)			
)			
Defendant-Appellee.)			
)			
)			
)			

CIRCUIT COURT CLERK'S CERTIFICATE

I, K. Uemura, Clerk of the Circuit Court of the First Circuit, State of Hawaii,
do hereby certify that all images in this Record On Appeal are of originals thereof as
listed and entered of record (except where noted) in Civil No. 18-1-1376,
First Circuit Court, and that they are attached hereto and made a part hereof.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of this
Court, this 24th day of June, 2019.

BY

/s/ K. UEMURA
Clerk of the Court
Circuit Court, First Circuit
State of Hawaii