

SB 1176

Report Title:

Hawaii Paroling Authority

Description:

Allows designees be appointed to the panel that reviews applicants for the paroling authority and nominates members for the Governor's consideration.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

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No. _____

TESTIMONY ON SENATE BILL 1176
RELATING TO
THE HAWAII PAROLING AUTHORITY
by
Ted Sakai, Director
Department of Public Safety

Senate Committee on Public Safety, Intergovernmental and Military Affairs
Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair

Thursday, February 28, 2013; 3:15 p.m.
State Capitol, Room 224

Chair Espero, Vice Chair Baker and Members of the Committee:

The Department of Public Safety (PSD) **supports** Senate Bill 1176, relating to the Hawaii Paroling Authority, which allows designees be appointed to the panel that reviews applicants for the paroling authority and nominates members for the Governor's consideration. The purpose of this measure is to ensure the timely nomination of new members.

The paroling authority nomination panel includes the Chief Justice of the Hawaii Supreme Court, the Director of Public Safety, the President of the Bar Association of Hawaii, and the President of the Hawaii Chapter of the National Social Workers Association. The panel is responsible for vetting the list of applicants, conducting interviews, and submitting not less than three names per vacancy for the Governor's consideration. This work averages three to five full days of meetings, a schedule that is often impractical for persons in high level positions. The proposed amendments would allow the Chief Justice, Director, and President to appoint designees to represent them.

In addition to the above, **we respectfully request that this measure be amended** to add language related to the Justice Reinvestment Initiative as found in Act 139, Session Laws of Hawaii 2012. The proposed amendments include defining the quorum required to take action on matters before the Hawaii Paroling Authority and correcting the sunset section.

Section 6 of Act 139 increases the members of the Hawaii Paroling Authority (HPA) from a chairperson and two part-time members to a chairperson and four part-time members. This section, as introduced by the Administration, was intended to allow part-time members to rotate duties, requiring three members be present to act on matters before the parole board. The purpose of this section was to ensure a panel of three members was always available while other members were ill, on vacation, family leave, etc. It also allows for some members to be reviewing cases while others are hearing other cases.

Section 92-12, HRS, defines a quorum as "all the members to which the board or commission is entitled" unless it is otherwise specified in law. The proposed amendment below allows for a panel of three members to convene a hearing, with all matters acted upon by the majority of those present. As some HPA members have previously been employed in the criminal justice system, it is not unusual for conflicts of interest in a given case to arise. Convening panels of three allows HPA to avoid conflicts requiring recusal of a member by not scheduling a member having a conflict when such a situation is identified beforehand.

On rare occasions, a member will not be aware prior to the hearing of a potential conflict of interest. This measure also allows for two members to continue to proceed with a hearing should a third member of the panel determine immediately preceding or during the course of a hearing that there is a conflict of interest that requires recusal.

To accomplish the above, we recommend the following language be added as a new section to this measure:

SECTION __. Section 353-62, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:
"(b) In its operations the paroling authority shall:

- (1) Keep and maintain a record of all meetings and proceedings;
- (2) Send a detailed report of its operations to the governor every three months;
- (3) In promulgating rules, conform to chapter 91;
- (4) ~~[In all matters]~~ Entitle a prisoner to a hearing before a panel of three of its members which shall act by a majority of [its] the panel members;
[and]
- (5) If it is determined immediately preceding or during the course of a hearing that a sitting panel member must be recused due to a conflict of interest, the panel may proceed with two members; and
- ~~[(5)]~~ (6) Appoint an administrative secretary and such other clerical and other assistants as may be necessary within the limits of available appropriations, subject to any applicable salary classification and civil service schedules, laws, and rules."

Section 14 of Act 139 contains a sunset date for certain provisions. An error was made in identifying the date when previous law was in effect, nullifying the sunset date. To correct this error, the Department recommends another section be added to include the following language:

SECTION __. Act 139, Session Laws of Hawaii 2012, is amended by amending section 14 to read as follows:

"SECTION 14. This Act shall take effect on July 1, 2012; provided that:

- (1) Section 3 shall take effect on January 1, 2013;
- (2) Section 7 shall take effect on July 1, 2012, for any individual on parole supervision on or after July 1, 2012;
- (3) Section 8 shall take effect on July 1, 2012, and shall be applicable to individuals committing an offense on or after that date; and
- (4) Sections 3, 7, 8, 10, and 11 shall be repealed on July 1, 2018, and sections 353-10, 353-66, 706-670(1), 353-22.6, and 353-69, Hawaii Revised Statutes, shall be reenacted in the form ~~[on]~~ in which ~~[it]~~ they read on June 30, ~~[2018.]~~ 2012."

Thank you for the opportunity to present this testimony.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
HAWAII PAROLING AUTHORITY
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Honolulu, Hawaii 96814

TESTIMONY ON SENATE BILL 1176
RELATING TO THE HAWAII PAROLING AUTHORITY

BY

Bert Y. Matsuoka, Chairman
Hawaii Paroling Authority

AMENDED

Senate Committee on Public Safety, Intergovernmental and Military Affairs

Senator Will Espero, Chair
Senator Roselyn H. Baker, Vice Chair

Thursday, February 28, 2013; 3:15 p.m.
State Capitol, Conference Room 224

Chair Espero, Vice Chair Baker, and Members of the Committee:

The Hawaii Paroling Authority (HPA) **supports** Senate Bill 1176, relating to the HPA, which allows designees to be appointed to the panel that reviews applications for the paroling authority and nominates members for the Governor's consideration. The purpose of this measure is to ensure the timely nomination of new members when vacancies occur. The HPA defers to the Department of Public Safety's recommended amendments.

Thank you for the opportunity to provide testimony on Senate Bill 1176.

BERT Y. MATSUOKA
CHAIR

MICHAEL A. TOWN
MEMBER

JOYCE K. MATSUMORI-HOSHIJO
MEMBER

ANNELLE C. AMARAL
MEMBER

TOMMY JOHNSON
ADMINISTRATOR

No. _____