

STAND. COM. REP. NO.

2403

Honolulu, Hawaii

FEB 17

, 2006

RE: S.B. No. 2584
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Intergovernmental Affairs, to which was referred S.B. No. 2584 entitled:

"A BILL FOR AN ACT RELATING TO COUNTIES,"

begs leave to report as follows:

The purpose of this measure is to extend the statute of limitations for actions against a county for damage or injury from six months to two years.

Consumer Lawyers of Hawaii submitted testimony in support of this measure. The City and County of Honolulu Department of the Corporation Counsel submitted testimony in opposition.

Your Committee finds that the purpose of the six-month notice requirement is to allow the counties to receive notice of a claim and to timely investigate the matter claimed. However, according to the Consumer Lawyers of Hawaii, the Hawaii Supreme Court ruled in Kahale v. City and County of Honolulu, 104 Hawaii 341 (2004), that section 46-72, Hawaii Revised Statutes, is the statute of limitations applicable to actions against the counties. This overruled an earlier decision of the court that the applicable statute of limitations is two years.

Your Committee respectfully requests the Committee on Judiciary and Hawaiian Affairs to consider the law in states such as New York which have a notice of claim statute that serves as a condition precedent to suit and therefore as a substantive part of



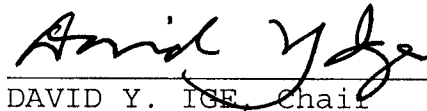
the cause of action, but is distinguishable from the statute of limitations.

Your Committee further requests that the Committee on Judiciary and Hawaiian Affairs consider provisions, such as those in New York's law, that give the court discretion to extend the time to serve a notice of claim and to allow a party to correct a defect in the notice of claim.

Upon further consideration, your Committee amended this measure by defecting the effective date to encourage further discussion of the issue.

As affirmed by the record of votes of the members of your Committee on Intergovernmental Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2584, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2584, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Intergovernmental
Affairs,



DAVID Y. ICE, Chair



