

Honolulu, Hawaii

APR 11 2006

RE: S.C.R. No. 94  
S.D. 1

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

Sir:

Your Committees on Judiciary and Hawaiian Affairs and Intergovernmental Affairs, to which was referred S.C.R. No. 94 entitled:

"SENATE CONCURRENT RESOLUTION ESTABLISHING A TASK FORCE TO EXAMINE THE ISSUE OF DISCRETIONARY FUNCTION EXCEPTION FOR OF THE STATE AND COUNTIES,"

beg leave to report as follows:

The purpose of this measure is to establish a task force to examine the issue of the discretionary function exception for the state and counties.

Your Committees received testimony in support of this measure from the Department of the Attorney General (Attorney General), the Department of Transportation, and the Department of the Corporation Counsel for the City and County of Honolulu. Consumer Lawyers of Hawaii submitted testimony in opposition to the measure.

Your Committees find that clarification is needed to determine whether the discretionary function exception under state law requires the State and counties to have the same protection from liability that the United States is afforded under federal law.

Your Committees have amended this measure in accordance with the testimony of Consumer Lawyers of Hawaii and based upon



discussions held during the hearing to change the composition of the task force's membership to:

- (1) The Attorney General or the Attorney General's designee;
- (2) A member from each county's executive branch;
- (3) One member of the Hawaii State Judiciary;
- (4) One faculty member from the University of Hawaii, William S. Richardson School of Law;
- (5) One member of the Hawaii State Bar Association who is primarily engaged in representing plaintiffs in cases against the State or counties, to be chosen by the president of the Hawaii State Bar Association;
- (6) One member from Consumer Lawyers of Hawaii;
- (7) One member from the Association of Trial Lawyers of America;
- (8) One member from the Hawaii Government Employees Association; and
- (9) One member from United Public Workers.

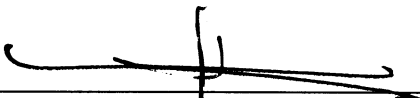
Your Committees note the request of the Attorney General that the scope of the task force's mission be expanded; however, based upon the complexity of the issues and the time limitations, your Committees believe it is best to retain the task force's mission as originally drafted.

As affirmed by the records of votes of the members of your Committees on Judiciary and Hawaiian Affairs and Intergovernmental Affairs that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 94, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 94, S.D. 1.



Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Hawaiian Affairs and  
Intergovernmental Affairs,

  
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DAVID Y. IGE, Chair

  
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COLLEEN HANABUSA, Chair





