

Honolulu, Hawaii  
Feb 15, 2008

RE: H.B. No. 3386  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2008  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 3386 entitled:

"A BILL FOR AN ACT RELATING TO ATTORNEYS,"

begs leave to report as follows:

The purpose of this bill is to ensure the timely provision of legal services to state departments by:

- (1) Changing the procedure for determining representation by the Attorney General (AG) for state departments, including boards, commissions, agencies, bureaus, and state officers. The new procedure would require, among other things, that the AG employ outside attorneys when the AG is unable to represent a department because of a conflict; and
- (2) Including the Legislature and Judiciary in the new procedures for representation by the AG.

The Judiciary testified in support of this bill. The AG opposed this measure.

Upon further consideration, your Committee has amended this bill by deleting its substance and inserting provisions that:




- (1) Allow a board, commission, or agency to employ or retain outside counsel in a matter other than one in which the board, commission, or agency is a defendant in litigation, if the AG declines representation based on a conflict of interest; and
- (2) Amend the method by which any court or judicial or legislative office may retain legal representation. Specifically, they may request representation by the AG who may decline to undertake the representation because of a conflict. However, in such cases where the AG does not undertake the representation, the AG is required to employ or retain outside counsel to provide the representation, subject to the approval of the court or judicial or legislative office.

Additionally, your Committee has changed the effective date to January 1, 2112, to encourage further discussion. Technical, nonsubstantive amendments were also made for style, clarity, and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3386, H.D. 1, and be referred to the Committee on Finance.

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



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TOMMY WATERS, Chair



