

STAND. COM. REP. NO.

3095

Honolulu, Hawaii

MAR 20 2008

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

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committee on Tourism and Government Operations, to which was referred H.B. No. 3386, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ATTORNEYS,"

begs leave to report as follows:

The purpose of this measure is to establish procedures to allow the employment or retention of outside attorneys by any court, judicial office, legislative office, board, commission, or agency.

Your Committee received testimony in support of this measure from the Judiciary. Testimony in opposition was received from the State Attorney General.

Your Committee finds that ethical conflict of interest may preclude the State Attorney General from representing any of the state entities simultaneously in the same matter. A typical example is legislative investigative committees which have a state department or agency as the subject of the investigation. The State Attorney General has the duty, pursuant to section 26-7, Hawaii Revised Statutes, to provide legal services to the Governor, Legislature, and state departments. However, this duty must be balanced against Rule 1.7, Conflict of Interest: General Rule, of the Hawai'i Rules of Professional Conduct as adopted and promulgated by the Hawaii Supreme Court, which does provide some leeway for representation in spite of a potential conflict of interest upon specified conditions and procedures.

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Accordingly, your Committee has amended this measure:

- (1) To provide procedures in potential conflict of interest situations involving the State Attorney General in the representation of any court or judicial or legislative office of the State. Your Committee has endeavored to craft the language to mirror as much as possible Rule 1.7, which is the arbiter of professional conduct for attorneys; and
- (2) To change the effective date to upon its approval.

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

Respectfully submitted on
behalf of the members of the
Committee on Tourism and
Government Operations,

Clarence K. Nishihara

CLARENCE K. NISHIHARA, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Tourism and Government Operations
TSG

Bill / Resolution No.:* HB3386, HD1	Committee Referral: TSG, JDL	Date: 3-18-09
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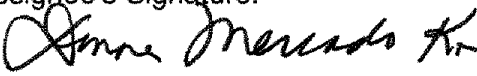
The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312 Pass, with amendments 2311 Hold 2310 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
NISHIHARA, Clarence K. (C)	/			
KIM, Donna Mercado (VC)	/			
TSUTSUI, Shan S.				/
TRIMBLE, Gordon			/	
TOTAL	2		1	1

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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*Only one measure per Record of Votes