

STAND. COM. REP. NO.

3091

Honolulu, Hawaii

MAR 20 2008

RE: H.B. No. 3422
H.D. 2

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

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 3422, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO SURCHARGE FOR INDIGENT LEGAL
SERVICES, "

begs leave to report as follows:

The purpose of this measure is to expand and increase the
surcharge in state district court cases, and increase the filing
fee in state circuit court cases, to fund indigent legal services.

Your Committee received testimony in support of this measure
from the Domestic Violence Action Center, Hawaii Disability Rights
Center, Hawaii Justice Foundation, Legal Aid Society of Hawai'i,
Hawaii State Bar Association, Na Loio, and Hawai'i Access to
Justice Hui. Testimony in opposition was received from the
Collection Law Section of the Hawaii State Bar Association and one
individual.

The Access to Justice Hui's final report of November 2007
found that four out of five low- and moderate-income residents do
not have their legal services needs met and that legal service
providers are only able to assist one in three who contact them
for assistance. Your Committee finds that to increase the
delivery of legal services, more funding is necessary and can be
generated by increasing the surcharge for indigent legal services,
as recommended by the Access to Justice Hui.



Your Committee notes the concerns of testifiers to the effect that:

- (1) This measure expands the applicability of the surcharge and increases the surcharge to all cases filed in state district court, which could work to the detriment of complainants in all types of cases;
- (2) This measure would increase the filing fee in the circuit courts, which would likely produce greater revenue inasmuch as these cases involve multiple filings by multiple parties in the same case;
- (3) This measure effectively operates as a tax on access to justice in the courts; and
- (4) Litigants in summary judgment cases, for example, rarely recover the amount of the delinquent rent so they are placed at a disadvantage at the outset of the filing of papers because they cannot make up for the cost of the filing fees.

Your Committee encourages further discussion in this regard as this measure progresses through the legislative process.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3422, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

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


BRIAN T. TANIGUCHI, Chair



