

Honolulu, Hawaii

FEB 14 2007

RE: S.B. No. 1602

S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Intergovernmental and Military Affairs, to which was referred S.B. No. 1602 entitled:

"A BILL FOR AN ACT RELATING TO COUNTIES,"

begs leave to report as follows:

The purpose of this measure is to require any State agency that receives county assistance, services, or permission to use county property, to indemnify the county.

Testimony in support of this measure was submitted by the City and County of Honolulu, Department of the Corporation Counsel; the County Council, County of Maui; the County of Hawaii; the County of Hawaii, Office of the Corporation Counsel; the County of Hawaii, Department of Parks and Recreation; and one individual. Testimony in opposition to this measure was submitted by the Department of the Attorney General.

Your Committee finds that, in an effort to maximize optimum beneficial use of public facilities and recognizing that the State does not have sufficient facilities for all its activities and programs, that the counties should cooperate with the State by allowing State agencies the use of county facilities for State events, including high school graduations and athletic competitions, and that the State should indemnify and defend the counties when the State agencies use county facilities.

Your Committee further finds, however, that mandating that the State indemnify the counties raises a serious concern by




potentially exposing the State to significant liability without any review by the Attorney General, approval by the Governor, or opportunity for the Comptroller to determine whether the State has sufficient insurance to cover the potential liability, or that it is not in the State's best interest to obtain such insurance coverage. Mandating such a requirement could substantially and unnecessarily interfere with interactions between the State and the counties in a number of unintended circumstances. Therefore, it is important that this measure allow, but not mandate, the State to defend or indemnify a county, but instead require the State and the respective counties to determine when it is necessary and appropriate for the State to defend or indemnify a county.

To this end, your Committee amended this measure to allow the State and the respective counties to determine when the State should defend or indemnify a county.

It is the intent of your Committee to require any State agency that receives county assistance, services, or permission to use county property, to indemnify the county, but that the State and the respective counties will determine when the State should defend or indemnify a county.

As affirmed by the record of votes of the members of your Committee on Intergovernmental and Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1602, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1602, S.D. 1, and be referred to the Committee on Judiciary and Labor.

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


LORRAINE R. INOUE, Chair



