

STAND. COM. REP. NO.

708

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 1316  
H.D. 2

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1316, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TORTS,"

begs leave to report as follows:

The purpose of this bill is to abolish joint and several liability for design professionals in tort claims relating to the maintenance and design of public highways, except when the design professional's degree of negligence is 25 percent or more.

Engineering Solutions, Inc.; Fukunaga & Associates, Inc.; Coalition of Hawaii Engineering and Architectural Professionals; American Council of Engineering Companies of Hawaii; American Society of Civil Engineers - Hawaii Section; Austin, Tsutsumi & Associates, Inc.; The Limtiaco Consulting Group, Inc.; Gray, Hong, Nojima, & Associates, Inc.; Shigemura, Lau, Sakanashi, Higuchi and Associates, Inc.; Brown and Calwell; KAI Hawaii, Inc.; Consulting Structural Hawaii, Inc.; Erskine Architects, Inc.; WTN Architecture, Inc.; American Society of Landscape Architects - Hawaii Chapter; Atlas Engineering, LLC.; Arcadia Architecture, Inc.; Collaborative Studio, LLC.; TreeHouse HI Team, LLC.; Tanimura & Associates, Inc.; Don Shaw AIA, Inc.; Riehm Owensby Planners Architects; Ferraro Choi and Associates, Ltd.; Kelso Architects, Inc.; John K. Mossman Design, Inc.; and several concerned individuals supported this bill. The Hawaii Association for Justice opposed this measure. Hawaiian Electric Company,

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Hawaii Electric Light Company, Maui Electric Company, and Hawaiian Telcom submitted comments.

Your Committee has amended this bill by:

- (1) Adding public utilities, as defined in Section 269-1, Hawaii Revised Statutes, as a type of organization covered by the same 25 percent fault attribution necessary to be held jointly and severally liable in claims relating to the maintenance and design of public highways; and
- (2) Making technical, nonsubstantive changes for clarity, consistency, and style.

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. 1316, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1316, H.D. 2.

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

  
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JON RIKI KARAMATSU, Chair



