

STAND. COM. REP. NO. 379

Honolulu, Hawaii

Feb 18, 2009

RE: H.B. No. 1037
H.D. 1

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. 1037 entitled:

"A BILL FOR AN ACT RELATING TO CIVIL ACTIONS,"

begs leave to report as follows:

The purpose of this bill is to abolish joint and several liability of the state and county governments for tort claims relating to the maintenance and design of highways.

The Department of the Attorney General, Department of Transportation, Office of the County Attorney of the County of Kauai, and Office of the Corporation Counsel of the County of Hawaii testified in support of this bill. Hawaiian Telcom, the American Public Works Association Hawaii Chapter, Hawaii Association for Justice, and American Council of Engineering Companies of Hawaii opposed this measure. Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company offered comments.

Your Committee notes that by abolishing joint and several liability of state and county governments in the types of cases this measure addresses, there is the potential for plaintiffs to receive additional disproportionate damages awards through joint and several liability of such defendants as government-contracted and government-supervised design professionals and engineers. Additionally, public utility companies may also be forced to bear additional financial burdens beyond their actual share of fault

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under the terms of this measure. Your Committee notes these concerns and urges their further consideration.

Your Committee has amended this bill by:

- (1) Changing its effective date to July 1, 2009; and
- (2) Making technical, nonsubstantive amendments 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. 1037, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 1037, H.D. 1.

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



JON RIKI KARAMATSU, Chair



