

STAND. COM. REP. NO.

1317

Honolulu, Hawaii

APR 09 2009

RE: H.B. No. 1728  
H.D. 1  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 1728, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO FEES,"

begs leave to report as follows:

The purpose of this measure is to remove administrative agencies' authority to establish fees and to replace that authority with statutory fees.

Your Committee received three written comments on this measure. The written comments may be reviewed on the Legislature's website.

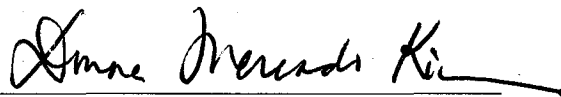
Your Committee finds that this measure addresses concerns raised in the Hawaii Supreme Court's decision in *Hawaii Insurers Council v. Lingle* that found certain administrative fees to be a form of taxation, thus violating the separation of powers clause of the Hawaii Constitution. Establishing these fees legislatively by statute rather than by administrative rule avoids conflict with the separation of powers doctrine, while also making administrative fees uniform.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1728, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

HB1728 SD1 SSCR LRB 09-3392.doc



Respectfully submitted on  
behalf of the members of the  
Committee on Ways and Means,

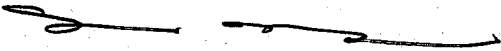


DONNA MERCADO KIM, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

|   |  |                                       |                                  |         |
|---|--|---------------------------------------|----------------------------------|---------|
| Bill / Resolution No.:*   | Committee Referral:                                    | Date:                                 |                                  |         |
| HB 1728 HDI SDI   | JGO WAM  | APRIL 3 2009                          |                                  |         |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure.<br>If so, then the previous decision was to: _____ |  |                                       |                                  |         |
| The Recommendation is:  |  |                                       |                                  |         |
| <input checked="" type="checkbox"/> Pass, unamended<br>2312   | <input type="checkbox"/> Pass, with amendments<br>2311 | <input type="checkbox"/> Hold<br>2310 |                                  |         |
| <input type="checkbox"/> Recommit<br>2313   |  |                                       |                                  |         |
| Members   | Aye  | Aye (WR)                              | Nay                              | Excused |
| KIM, Donna Mercado (C)  | /  |                                       |                                  |         |
| TSUTSUI, Shan S. (VC)   | /  |                                       |                                  |         |
| CHUN OAKLAND, Suzanne   | /  |                                       |                                  |         |
| ENGLISH, J. Kalani  |  |                                       |                                  | /       |
| FUKUNAGA, Carol   | /  |                                       |                                  |         |
| GALUTERIA, Brickwood  | /  |                                       |                                  |         |
| HEE, Clayton  | /  |                                       |                                  |         |
| HOOSER, Gary L.   | /  |                                       |                                  |         |
| KIDANI, Michelle N.   | /  |                                       |                                  |         |
| KOKUBUN, Russell S.   | /  |                                       |                                  |         |
| TOKUDA, Jill N.   | /  |                                       |                                  |         |
| HEMMINGS, Fred  |  |                                       |                                  | /       |
|   |  |                                       |                                  |         |
|   |  |                                       |                                  |         |
|   |  |                                       |                                  |         |
|   |  |                                       |                                  |         |
| <b>TOTAL</b>  | 10   |                                       |                                  | 2       |
| Recommendation:   |  |                                       |                                  |         |
| <input checked="" type="checkbox"/> Adopted   |  | <input type="checkbox"/> Not Adopted  |                                  |         |
| Chair's or Designee's Signature:  |  |                                       |                                  |         |
|    |  |                                       |                                  |         |
| Distribution:   |  |                                       |                                  |         |
| Original<br>File with Committee Report  | Yellow<br>Clerk's Office                               | Pink<br>Drafting Agency               | Goldenrod<br>Committee File Copy |         |

\*Only one measure per Record of Votes