

Honolulu, Hawaii

Feb 2, 2010

RE: H.B. No. 1851
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Education, to which was referred H.B. No. 1851 entitled:

"A BILL FOR AN ACT RELATING TO INDEMNIFICATION OF COUNTY AGENCIES,"

begs leave to report as follows:

The purpose of this bill is to facilitate the process by which the Department of Education (DOE) obtains approval for the State to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees for public school purposes and functions at county facilities.

The City and County of Honolulu and a concerned individual testified in support of this bill. The Department of the Attorney General and DOE supported the intent of this measure.

Your Committee has amended this bill to provide for a streamlined approval process while ensuring balance over the breadth of the indemnification by, among other things:

- (1) Allowing the Governor to delegate to the Superintendent of Education (Superintendent) the authority to indemnify, defend, and hold harmless a county agency, its officers, agents, and employees, rather than allowing DOE to agree in writing to an indemnity provision by which the State agrees to do so;



- (2) Requiring the Governor to approve the indemnity provision to be used by the Superintendent, rather than requiring that a single form for proposed indemnification be submitted by DOE;
- (3) Requiring, as a condition for the Governor to delegate the authority, that the comptroller obtain an insurance policy that is sufficient to cover the State's liability, unless the comptroller determines that obtaining an insurance policy is not in the State's best interest;
- (4) Changing all references to "county facilities" to "county properties"; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Education that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1851, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1851, H.D. 1, and be referred to the Committee on Judiciary.

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



ROY TAKUMI, Chair



