

STAND. COM. REP. NO.

139

Honolulu, Hawaii

FEB 14 2011

RE: S.B. No. 1231

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1231 entitled:

"A BILL FOR AN ACT RELATING TO CHAPTER 480, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to enable the Department of the Attorney General to enforce federal anti-trust laws through private action regardless of a governmental entity's status as an indirect purchaser.

Your Committee received testimony in support of this measure from the Department of the Attorney General.

Your Committee finds that, under federal law, the main enforcement mechanism for federal anti-trust statutes is the right of private action for recovery on behalf of an injured person. In the case of a government entity that has been subject to an anti-trust violation in government purchasing, the injury ultimately devolves to the taxpayers. Your Committee further finds that judicial precedent has prevented other government entities from succeeding in anti-trust actions prosecuted on behalf of the public where the State is an indirect purchaser of goods or services subject to price fixing or other prohibited conduct. In these cases, unless applicable state law expressly grants the government entity the right to pursue an anti-trust lawsuit as an indirect purchaser, courts have barred recovery for the entity, and by extension the taxpayers. Your Committee also finds that

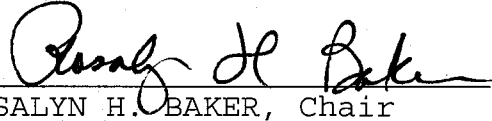


this measure remedies a current deficiency in Hawaii law that prevents government entities from pursuing all available remedies for anti-trust violations.

Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1231, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1231, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on
behalf of the members of the
Committee on Commerce and
Consumer Protection,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:* <div style="text-align: center; font-size: 1.2em;">SB 1231</div>	Committee Referral: <div style="text-align: center; font-size: 1.2em;">CPN, JDL</div>	Date: <div style="text-align: center; font-size: 1.2em;">2-9-2011</div>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	✓			
TANIGUCHI, Brian T. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, M.D., Josh	✓			
NISHIHARA, Clarence K.	✓			
SOLOMON, Malama	✓			
SLOM, Sam		✓		
TOTAL	6	1	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes