

Honolulu, Hawaii

FEB 17 2012

RE: S.B. No. 2730

S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 2730 entitled:

"A BILL FOR AN ACT RELATING TO FALSE CLAIMS TO THE STATE,"

begs leave to report as follows:

The purpose and intent of this measure is to bring Hawaii's false claims laws in compliance with the federal False Claims Act, and provide greater protection to individuals who allege fraud against the State. More specifically, this measure:

- (1) Provides special protection and relief to individuals who try to stop others from committing false claims violations against the State by their own conduct or through the conduct of any of their associates; and
- (2) Updates the State's false claims laws in order to comply with the federal False Claims Act, so that the State may continue to retain an additional ten percent of any civil recovery in cases involving federal programs.

Your Committee received testimony in support of this measure from the Department of the Attorney General and one private individual.

Your Committee finds that Hawaii's false claims law establishes causes of actions that result in civil penalties and damages against individuals or entities claiming or collecting money from the State under false pretenses. Until recently, state



law complied with the federal requirements thereby allowing the State to obtain a greater share of the recovery in cases where federal dollars were at stake. However, the federal government recently amended its False Claims Act and consequently requires Hawaii to update its laws by March 31, 2013. This measure ensures that the necessary statutory changes are made so that the State may continue to retain an additional ten percent of any civil recovery in cases involving federal programs.

Your Committee notes that in updating the State's false claims act, this measure also provides special protections and relief to individuals who try to stop others from committing false claims violations against the State by their own conduct or through the conduct of any of their associates. The State's whistleblower's protection act gives rise to causes of action by employees who are retaliated against by employers for providing information of wrongdoing. This measure provides far greater protection against retaliation than the whistleblowers' protection act because it includes employees, contractors, and agents from retaliatory actions by anyone who has the authority to affect the individual's status as an employee, contractor, or agent.

Your Committee has amended this measure by:

- (1) Adding amendments to the county false claims act to reflect the amendments made to the state false claims act, as suggested by a private individual and agreed upon by the Department of the Attorney General;
- (2) Allowing the State or a county to recover consequential damages in a false claims action;
- (3) Deleting the exemption that precludes actions brought for tax fraud in order to afford the State further opportunity to recover monies;
- (4) Deleting the savings clause and replacing it with language that provides a liberal interpretation of this measure;
- (5) Adding a severability clause; and
- (6) 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2730, S.D. 1, and be referred to the Committee on Ways and Means.

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



CLAYTON HEE, Chair



