



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

S.B. NO. 3067, RELATING TO THE OFFICE OF PLANNING.

BEFORE THE:

SENATE COMMITTEE ON WATER, LAND, AND HOUSING

DATE: Thursday, February 16, 2012 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): David M. Louie, Attorney General, or
Deborah Day Emerson, Supervising Deputy Attorney General, or
Bryan C. Yee, Deputy Attorney General

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General takes no position on the part of this bill requiring the creation of operating teams to collect data and conduct studies regarding jobs and businesses, but must oppose that part of the bill which seeks to move the Office of Planning into the Office of the Governor, due to a constitutional objection.

The portions of the bill that propose to move the Office of Planning from the Department of Business, Economic Development, and Tourism into the Office of the Governor violate article V, section 6 of the Hawaii State Constitution which states in relevant part as follows:

All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

The question of whether state agencies may be placed within the Office of the Governor was addressed in Attorney General Opinion No. 96-1, which is attached and states in relevant part as follows:

We believe that the first paragraph of section 6 of article V of the Constitution of the State of Hawaii requires that state executive branch agencies be placed within the principal departments of the executive branch of state government, unless they are commissions

or agencies that are both temporary and for special purposes. The Office of the Governor is not a principal department of the executive branch of state government. Therefore, any agency that is not temporary and for special purposes cannot be validly placed within the Office of the Governor.

The Office of Planning is not a temporary agency with a special purpose. Accordingly, the placement of the Office of Planning within the Office of the Governor would violate article V, section 6, of the Hawaii State Constitution, and we respectfully ask the Committee to delete those portions of the bill relating to the placement of the Office of Planning within the Office of the Governor.

Attach.