

STAND. COM. REP. NO.

962

Honolulu, Hawaii

MAR 2 1 2013

RE: H.B. No. 775
H.D. 2
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 775, H.D. 2, entitled:

"A BILL FOR AN ACT MAKING APPROPRIATIONS FOR CLAIMS AGAINST
THE STATE, ITS OFFICERS, OR ITS EMPLOYEES,"

begs leave to report as follows:

The purpose and intent of this measure is to make an appropriation to satisfy several claims against the State, its officers, or its employees, including claims for legislative relief, judgments against the State, settlements, and other miscellaneous claims.

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

Your Committee finds that this measure requests a total of \$4,887,605.33 in appropriations from the general fund to satisfy twenty-one claims against the State, a total of \$2,410,000 in appropriations from the state highway fund to satisfy three claims against the State, and a total of \$150,000 in appropriations from the state harbor fund to satisfy one claim against the State. The grand total for the twenty-five claims settled in this measure as received by your Committee is \$7,447,605.33. Timely passage of this measure will minimize interest on those amounts.

Your Committee notes the written testimony submitted by Department of the Attorney General that requests the addition of

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five new claims that have been resolved since this measure was introduced that total \$5,197,471.21. These additions require a total of \$5,162,471.21 in appropriations from the general fund to satisfy four claims against the State and a total of \$35,000 from the state highway fund to satisfy one claim against the State.

Furthermore, the Attorney General testified that recently a settlement has been reached on a class action case that claimed that the Department of Education underpaid substitute teachers and requested that your Committee add this settlement amount to this measure. However, the Attorney General testified that whether the State is required to pay prejudgment interest on the amount of the underpayment remains an outstanding issue that the State intends to appeal. Because an appeal on this issue could take years to resolve and the interest claim continues to accrue at approximately \$2,000 per day, the Attorney General clarified that the settlement amount added to this measure of \$15,091,122.33 represents only the agreed upon amount for back wages owed by the State along with the appropriate taxes and that the State reserves the claims for prejudgment interest, attorney's fees, and other miscellaneous claims.

Because the calculation and disbursement of the substitution teacher back pay settlement amount still needs to be worked out with the Department of Education, your Committee encourages the Attorney General to update your Committee on Ways and Means on this matter in order for the settlement amount to be appropriately reflected and included in the state budget. The Attorney General does not anticipate any additional appropriations for claims against the State that will need to be added to this measure before adjournment sine die.

Your Committee has amended this measure by:

- (1) Adding six settlement claims totaling \$20,288,593.54 to this measure, as requested by the Department of the Attorney General, from the general fund and state highway fund, which increases the total amount of appropriations in this measure to \$27,736,198.87 in order to satisfy a total of thirty-one claims against the State; and
- (2) Changing the referenced "state harbor fund" to "harbor special fund" to accurately refer to the appropriate fund.



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 H.B. No. 775, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 775, H.D. 2, 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



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 775 HD2	Committee Referral: JDL, WAM	Date: 3/12/13		
<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
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
SLOM, Sam	YHS NAY	✓		
TOTAL	3	1	0	1
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