

Honolulu, Hawaii

FEB 11 2013

RE: S.B. No. 1010
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
S.B. No. 1010 entitled:

"A BILL FOR AN ACT RELATING TO LEGAL SERVICES,"

begs leave to report as follows:

The purpose and intent of this measure is to modify the law that prohibits the Attorney General, First Deputy, and other deputies from engaging in the private practice of law by allowing deputy attorneys general, other than the Attorney General's First Deputy, to provide pro bono services to the community at the Attorney General's discretion.

Your Committee received testimony in support of this measure from the Department of the Attorney General and Hawaii Access to Justice Commission. Comments were submitted by the Hawaii State Ethics Commission.

Your Committee finds that under the Hawaii Rules of Professional Conduct, every attorney is responsible for providing legal services to those individuals who are unable to pay. This rule assures that more individuals are afforded access to justice. Currently, deputy attorneys general are prohibited from providing pro bono services because existing law requires them to devote their entire time and attention to the duties of their respective offices and ensure that the legal matters of the State are properly and promptly addressed. This measure will increase delivery of legal services to low income Hawaii residents by allowing more attorneys to provide pro bono legal services.



Your Committee notes that the Hawaii State Ethics Commission is concerned that this measure conflicts with the laws relating to conflicts of interest under the State Ethics Code. The State Ethics Code prohibits a deputy attorney general from working on a matter in the deputy attorney general's official capacity. Furthermore, the Commission expressed to your Committee that authorizing the Attorney General the sole discretion to determine who may receive pro bono legal services from deputy attorneys general and for whom state resources may be expended may be inconsistent with the intent of the fair treatment law under the State Ethics Code. The Department of the Attorney General and the State Ethics Commission agreed that referencing rule 6.1 of the Hawaii Rules of Professional Conduct to specify the types of pro bono activities for which the Department of the Attorney General's resources may be used in providing pro bono legal services was sufficient in alleviating the Commission's fair treatment concerns.

Accordingly, your Committee has amended this measure by:

- (1) Adopting language suggested by the Hawaii State Ethics Commission that limits the types of pro bono legal services that may be provided to services that do not reasonably create a conflict of interest and requires the Attorney General to make certain considerations when determining whether to allow a deputy to provide pro bono legal services;
- (2) Adding a reference to rule 6.1 of the Hawaii Rules of Professional Conduct to specify the types of pro bono legal services and activities for which the Department of the Attorney General's resources may be used in providing pro bono legal services;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion on this matter; and
- (4) 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. 1010, as amended herein, and recommends that it pass Second



Reading in the form attached hereto as S.B. No. 1010, 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.:* SB 1010	Committee Referral: JDL, WAM	Date: 01-29-2013
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The committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:

Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5			

Recommendation:
 Adopted
 Not Adopted

Chair's or Designee's Signature:

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*Only one measure per Record of Votes