

STAND. COM. REP. NO.

185

Honolulu, Hawaii

FEB 11 2013

RE: S.B. No. 878

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. 878 entitled:

"A BILL FOR AN ACT RELATING TO ARBITRATION,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify the
authority of an arbitrator to award costs in arbitration
proceedings.

Your Committee received testimony in support of this measure
from the Hawaii Association for Justice.

Your Committee finds that existing law allows an arbitrator
to award attorney's fees and other reasonable expenses relating to
arbitration. However, there is confusion as to whether "expenses
of arbitration" has the same meaning as "costs" because "costs"
has its own distinct meaning that is traditionally used and
applied by the courts. This measure adds the term "costs" to
comply with the more traditional meaning used by the courts, which
includes costs such as deposition transcripts, witness fees,
copying costs, and similar expenditures.

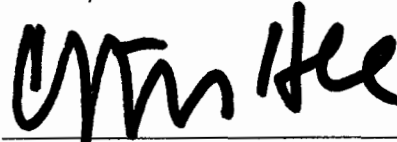
Your Committee further finds that existing law authorizes an
arbitrator to award attorney's fees and other expenses in a civil
action involving the same claim or by the agreement of the parties
to the arbitration proceeding. This measure changes the term
"same claim" to "similar claim" to recognize that arbitration
procedures are more flexible in addressing a wider range of



disputes and issues than the courts and provide arbitrators the same discretion as judges to award costs when appropriate.

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. 878 and recommends that it pass Second Reading 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 878 | Committee Referral: JDL, WAM | Date: 01-31-2013 |
|--|--|----------------------------|

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 | ✓ | | | |
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| TOTAL | 4 | | | 1 |

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:

Distribution: Original Yellow Pink Goldenrod
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*Only one measure per Record of Votes