

STAND. COM. REP. NO.

178

Honolulu, Hawaii

FEB 11 2013

RE: S.B. No. 889
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. 889 entitled:

"A BILL FOR AN ACT RELATING TO ATTORNEY'S FEES,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that
when the State prevails in a court action, the Attorney General is
allowed an award of attorney's fees and litigation costs but not
to the Attorney General personally.

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

Your Committee finds that some courts have misinterpreted
section 28-6, Hawaii Revised Statutes, and have refused to award
attorney's fees to the State or the Department of the Attorney
General when the State prevails in a lawsuit and a deputy attorney
general requests an award of attorney's fees. The purpose of
section 28-6, Hawaii Revised Statutes, is to prohibit the Attorney
General and deputy attorneys general from being compensated for
performing a task that is already a part of their official duties
and for which they receive a salary. However, existing law was
not meant to prevent the State or the department from recovering
attorney's fees in lawsuits in which the State prevails.
Accordingly, this measure allows the department an award of
attorney's fees when the State prevails in a lawsuit and clarifies
that the Attorney General shall not personally receive a fee or
reward. Your Committee notes its intent that the attorney's fees



awarded to the department shall be consistent with the amount of awards to other interested parties.

Your Committee has amended this measure by inserting an effective date of July 1, 2050, to encourage further discussion on this matter.

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. 889, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 889, 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.:*	Committee Referral:	Date:
SB 889	JDL, WAM	01-29-2013

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	✓			
TOTAL	5			

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature: 

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*Only one measure per Record of Votes