



**COMMENTS OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

LATE

ON THE FOLLOWING MEASURE:

S.B. NO. 889, S.D. 1, RELATING TO ATTORNEY'S FEES.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Thursday, February 21, 2013

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 211

WRITTEN COMMENTS ONLY

David M. Louie, Attorney General, or

Steve A. Bumanglag, or Michael S. Vincent, Deputy Attorneys General

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Chair Ige and Members of the Committee:

The Department of the Attorney General (the Department) supports this bill.

The purpose of this bill is to allow the State to recover its attorneys' fees when it prevails in a lawsuit. Some courts have misinterpreted section 28-6, Hawaii Revised Statutes (HRS), and have refused to award the State attorneys' fees when the State prevails in a lawsuit, and the Department of the Attorney General requests an award of attorneys' fees. The purpose of section 28-6, HRS, is to prohibit the Attorney General and his deputies from being personally compensated for performing a task that is part of their official duties and for which they receive a salary. The statute was not meant to prevent the State from recovering attorneys' fees in cases in which it prevails.

This bill amends section 28-6, HRS, by clarifying that, other than their State salary, the Attorney General and his deputies may not personally be compensated for performing their official duties. This bill also amends section 28-6 by clarifying that a court should not misinterpret section 28-6 as prohibiting the court from ordering a losing party to pay the State's

attorneys' fees when it prevails in a lawsuit, as authorized by statute, a court rule, agreement, stipulation, or precedent.

We respectfully request passage of this bill.