



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND LABOR

DATE: Thursday, January 29, 2013

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Steve A. Bumanglag, or Michael S. Vincent, Deputy Attorneys General

Chair Hee 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 and the Department 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 and/or Department attorney's fees when it prevails in a lawsuit, and a deputy attorney general requests an award of attorneys' fees. The purpose of section 28-6, HRS, was to prohibit the Attorney General and his deputies from being 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 or the Department 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 Department'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.