

STAND. COM. REP. NO.

970

Honolulu, Hawaii

MAR 21 2013

RE: H.B. No. 776

H.D. 2

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
H.B. No. 776, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO GOVERNMENT TORT LIABILITY,"

begs leave to report as follows:

The purpose and intent of this measure is to amend section
662-5, Hawaii Revised Statutes, to authorize the State, when sued
in a tort action, to demand a jury trial in the same manner and to
the same extent as a private individual under like circumstances.

Your Committee received testimony in support of this measure
from the Department of the Attorney General. The Hawaii
Association for Justice submitted written comments on this
measure.

Your Committee finds that existing law provides that tort
claims against the State are to be tried by the court without a
jury unless the State and the individual bringing the claim agree
to a jury trial. Neither party has the right to unilaterally
demand a jury trial. Private individuals sued in a tort action
may demand jury trials under existing law or may waive that right.
However, the State is not provided the same opportunity to demand
or waive a jury trial in tort actions under like circumstances
because the State does not have the same rights.

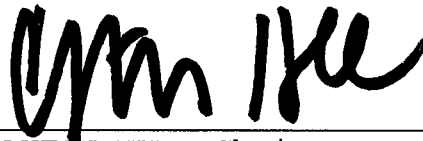
A private individual, in consultation with the individual's
attorney, is in the best position to determine whether the claim
against the individual and the issue involved should be tried by a



jury or a judge. Because the State is supposed to be sued and held liable in the same manner and to the same extent as private individuals, your Committee further finds that the State ought to have the same right to demand jury trials. This measure puts the State on equal footing with other private individuals sued in a tort action and an opportunity for consistent and equitable decisions and judgments.

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 H.B. No. 776, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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:		
HB 776 HD2	JDL	3/12/13		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
SLOM, Sam	✓			
TOTAL	4			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes