

Honolulu, Hawaii
February 19, 2016

RE: H.B. No. 2285
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2285 entitled:

"A BILL FOR AN ACT RELATING TO THE LITIGATION TRUST FUND,"

begs leave to report as follows:

The purpose of this measure is to enable the Attorney General to have the funds necessary to prosecute civil claims of the State by directing the:

- (1) Deposit of proceeds from all civil actions or settlements of claims initiated, prosecuted, or filed by the Attorney General, including those related to false claims, but excluding actions that have a statutorily-designated specific depository fund, into the Litigation Deposits Trust Fund (Fund);
- (2) Retention of fifteen percent of any recovery in the Fund to support the Department of the Attorney General's investigation and prosecution efforts, with the remaining balance after allocation retained in the Fund or used to reimburse any non-general fund for losses related to the relevant action or claim;
- (3) Credit of investment earnings to the Fund;
- (4) Lapse of all unencumbered and unexpended moneys in excess of \$1,000,000 remaining on balance in the Fund at the close of each fiscal year to the general fund; and



- (5) Require the Department of the Attorney General (Department) to submit a report to the Legislature prior to each regular session on the accounting of the Fund's receipts and expenditures.

The Department testified in support of this measure.

Your Committee finds that the Department of the Attorney General has responsibility for prosecuting claims on behalf of the State in addition to defending the State against claims. This measure is intended to assist the Department with prosecuting a higher volume and greater breadth of cases by enabling the Department to use moneys from the Fund as they are recovered, rather than transferring the moneys to other departments and subsequently requesting an appropriation. It should be noted that the Fund as amended by this measure includes a cap of \$1,000,000 so that any funds in excess of \$1,000,000 will lapse at the end of each fiscal year to the credit of the general fund.

It is your Committee's intent that this measure will significantly reduce the need for the Department to request emergency appropriations for litigation and that the Department will employ a greater number of attorneys and support staff instead of retaining outside counsel.

Your Committee has amended this measure by:

- (1) Specifying that the fifteen percent of any recovery to be retained by the Fund includes recovery for false claim civil actions;
- (2) Requiring all recoveries by the State for false claim civil actions be deposited into the Fund, subject to the terms of the Fund's usage and allocation; and
- (3) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2285, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2285, H.D. 1, and be referred to your Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

Karl Rhoads

KARL RHOADS, Chair



