

STAND. COM. REP. NO. 2734

Honolulu, Hawaii

MAR 04 2016

RE: S.B. No. 2923
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 2923 entitled:

"A BILL FOR AN ACT RELATING TO TAX ADMINISTRATION,"

begs leave to report as follows:

The purpose and intent of this measure is to bring clarity and consistency to the treatment of penalties and fines within Title 14, Hawaii Revised Statutes, and promote compliance with the tax laws of the State.

More specifically, this measure:

- (1) Clarifies that interest shall be imposed on all unpaid penalties and fines;
- (2) Requires the chairperson of the applicable Board of Review to file a notice of transfer with the Tax Appeal Court when the board receives notice that a taxpayer elects to transfer a tax appeal to that court;
- (3) Specifies the interest rate on amounts paid out of the litigated claims fund; and
- (4) Provides that for assessments exceeding \$50,000, the assessed taxes, penalties, and interest shall be paid prior to an appeal.



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

Your Committee received written testimony in opposition to this measure from The Chamber of Commerce Hawaii, the Council on State Taxation, the Tax Committee of the Hawaii Society of Certified Public Accountants, and two individuals.

Your Committee received written comments on this measure from the Tax Foundation, the Tax Foundation of Hawaii, and one individual.

Your Committee finds that this measure will:

- (1) Provide clarity and create uniformity by imposing interest on all unpaid penalties and fines rather than only on penalties and fines that become part of the tax pursuant to statute;
- (2) Provide procedural clarity regarding a taxpayer's exercise of the right to transfer an appeal from the Board of Review to the Tax Appeal Court, and the duties of the Board of Review upon receiving a notification of the transfer; and
- (3) Simplify the rate of interest to be paid to taxpayers on funds held in the litigated claims fund by plainly stating the interest rate rather than referring to a formula computed with reference to the Internal Revenue Code.

Your Committee has amended this measure by:

- (1) Deleting an amendment requiring that a taxpayer's first tax appeal to the Board of Review or Tax Appeal Court may be made without payment of the tax assessed only if the assessment does not exceed \$50,000, which was characterized in testimony as an unfair "pay to play" requirement and was the primary focus of testifiers who opposed the measure; and
- (2) Specifying the rates of interest to be paid to successful appealing taxpayers on funds held in the litigated claims fund.



As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2923, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2923, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,

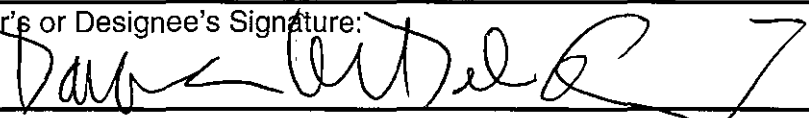


JILL N. TOKUDA, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* SB 2923	Committee Referral: WAM	Date: 2/17/16		
<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 type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
CHUN OAKLAND, Suzanne	/			
ENGLISH, J. Kalani	/			
GALUTERIA, Brickwood	/			
HARIMOTO, Breene	/			
INOUYE, Lorraine R.	/			
RIVIERE, Gil	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
SLOM, Sam	/			
TOTAL	11			
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