

STAND. COM. REP. NO.

3184

Honolulu, Hawaii

FEB 29 2020

RE: S.B. No. 2391  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawaii

Sir:

Your Committees on Judiciary and Ways and Means, to which was referred S.B. No. 2391 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAIIAN HOMES  
COMMISSION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow the Hawaiian Homes Commission or the Department of Hawaiian Home Lands to retain independent legal counsel as needed;
- (2) Authorize the Hawaiian Homes Commission and the Department of Hawaiian Home Lands to use the services of the Attorney General as needed and when the interests of the State, Hawaiian Homes Commission, and the Department of Hawaiian Home Lands are aligned; and
- (3) Provide that funds paid to independent legal counsel shall be paid by the State.

Your Committees received testimony in support of this measure from the Department of Hawaiian Home Lands and three individuals. Your Committees received testimony in opposition to this measure from the Department of the Attorney General.



Your Committees find that the Hawaiian Homes Commission and Department of Hawaiian Home Lands have a trust duty to their beneficiaries and in the fulfillment of this trust obligation, the Hawaiian Homes Commission and Department of Hawaiian Home Lands may at times be at odds with the interests of the State. It is at these times that the Hawaiian Homes Commission and Department of Hawaiian Home Lands must be assured that they receive legal counsel strictly in the interest of their beneficiary clients. This measure will allow the Hawaiian Homes Commission and Department of Hawaiian Home Lands to retain independent counsel when their interests are not aligned with the State to avoid any potential conflict of interest or breach of fiduciary duty.

Your Committees have amended this measure by:

- (1) Deleting language that would have authorized the Hawaiian Homes Commission and the Department of Hawaiian Home Lands to use the services of the Attorney General as needed and when the interests of the State, Hawaiian Homes Commission, and the Department of Hawaiian Home Lands are aligned;
- (2) Deleting language that would have provided that funds paid to independent legal counsel shall be paid by the State; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2391, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2391, S.D. 1.



Respectfully submitted on  
behalf of the members of the  
Committees on Judiciary and  
Ways and Means,

  
\_\_\_\_\_  
DONOVAN M. DELA CRUZ, Chair

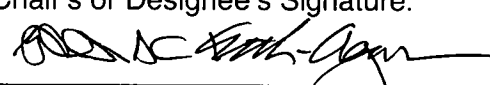
  
\_\_\_\_\_  
KARL RHOADS, Chair





The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Ways and Means**  
**WAM**

Bill / Resolution No.:* <p style="text-align:center;">SB2391</p>	Committee Referral: <p style="text-align:center;">HWN, JDC/WAM</p>	Date: <p style="text-align:center;">2/26/20</p>		
<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
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
ENGLISH, J. Kalani	X			
HARIMOTO, Breene				X
INOUYE, Lorraine R.	X			
KAHELE, Kaiali'i				X
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MORIWAKI, Sharon Y.	X			
RIVIERE, Gil	X			
SHIMABUKURO, Maile S.L.	X			
TANIGUCHI, Brian T.				X
FEVELLA, Kurt	X			
<b>TOTAL</b>	10			3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original            Yellow            Pink            Goldenrod File with Committee Report            Clerk's Office            Drafting Agency            Committee File Copy				

\*Only one measure per Record of Votes