STAND. COM. REP. NO. **536** -08

Honolulu, Hawaii

Fely 15, 2008

RE: H.B. No. 3386 H.D. 1

Honorable Calvin K.Y. Say Speaker, House of Representatives Twenty-Fourth State Legislature Regular Session of 2008 State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 3386 entitled:

"A BILL FOR AN ACT RELATING TO ATTORNEYS,"

begs leave to report as follows:

The purpose of this bill is to ensure the timely provision of legal services to state departments by:

- (1) Changing the procedure for determining representation by the Attorney General (AG) for state departments, including boards, commissions, agencies, bureaus, and state officers. The new procedure would require, among other things, that the AG employ outside attorneys when the AG is unable to represent a department because of a conflict; and
- (2) Including the Legislature and Judiciary in the new procedures for representation by the AG.

The Judiciary testified in support of this bill. The AG opposed this measure.

Upon further consideration, your Committee has amended this bill by deleting its substance and inserting provisions that:

- (1) Allow a board, commission, or agency to employ or retain outside counsel in a matter other than one in which the board, commission, or agency is a defendant in litigation, if the AG declines representation based on a conflict of interest; and
- (2) Amend the method by which any court or judicial or legislative office may retain legal representation. Specifically, they may request representation by the AG who may decline to undertake the representation because of a conflict. However, in such cases where the AG does not undertake the representation, the AG is required to employ or retain outside counsel to provide the representation, subject to the approval of the court or judicial or legislative office.

Additionally, your Committee has changed the effective date to January 1, 2112, to encourage further discussion. Technical, nonsubstantive amendments were also made for style, clarity, and consistency.

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. 3386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3386, H.D. 1, and be referred to the Committee on Finance.

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

TOMMY WATERS. Chair



State of Hawaii House of Representatives The Twenty-fourth Legislature

Record of Votes of the Committee on Judiciary

Bill/Resolution No.:	Committee Referral:		Date:		
нв3386	JUD, FIN		2/12/08		
☐ The committee is reconsidering its previous decision on the measure.					
The recommendation is to: Pass, unamended (as is) Pass, with amendments (HD) Hold Pass short form bill with HD to recommit for future public hearing (recommit)					
JUD Members	Ayes	Ayes (WR)	Nays	Excused	
1. WATERS, Tommy (C)					
2. OSHIRO, Blake K. (VC)	/,				
3. EVANS, Cindy					
4. GREEN, Josh, M.D.					
5. ITO, Ken					
6. LUKE, Sylvia					
7. McKELVEY, Angus L.K.					
8. MORITA, Hermina M.					
9. SONSON, Alex M.					
10. SOUKI, Joseph M.					
11. TSUJI, Clift					
12. YAMANE, Ryan I.			illustration and the second		
13. YAMASHITA, Kyle T.					
14. MARUMOTO, Barbara C.			A THE STATE OF THE		
15. PINE, Kymberly Marcos	The second secon				
16. THIELEN, Cynthia			777 107 103 103 103 103 103 103 103 103 103 103		
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TOTAL (16)	12	2		2	
The recommendation is: Adopted Not Adopted					
If joint referral, did not support recommendation. committee acronym(s)					
Vice Chair's or designee's signature:					
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office					