STAND. COM. REP. NO. 3091

Honolulu, Hawaii

MAR 2 0 2008

RE: H.B. No. 3422

H.D. 2

Honorable Colleen Hanabusa President of the Senate Twenty-Fourth State Legislature Regular Session of 2008 State of Hawaii

Madam:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 3422, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES."

begs leave to report as follows:

The purpose of this measure is to expand and increase the surcharge in state district court cases, and increase the filing fee in state circuit court cases, to fund indigent legal services.

Your Committee received testimony in support of this measure from the Domestic Violence Action Center, Hawaii Disability Rights Center, Hawaii Justice Foundation, Legal Aid Society of Hawaii, Hawaii State Bar Association, Na Loio, and Hawaii Access to Justice Hui. Testimony in opposition was received from the Collection Law Section of the Hawaii State Bar Association and one individual.

The Access to Justice Hui's final report of November 2007 found that four out of five low- and moderate-income residents do not have their legal services needs met and that legal service providers are only able to assist one in three who contact them for assistance. Your Committee finds that to increase the delivery of legal services, more funding is necessary and can be generated by increasing the surcharge for indigent legal services, as recommended by the Access to Justice Hui.

Your Committee notes the concerns of testifiers to the effect that:

- (1) This measure expands the applicability of the surcharge and increases the surcharge to all cases filed in state district court, which could work to the detriment of complainants in all types of cases;
- (2) This measure would increase the filing fee in the circuit courts, which would likely produce greater revenue inasmuch as these cases involve multiple filings by multiple parties in the same case;
- (3) This measure effectively operates as a tax on access to justice in the courts; and
- (4) Litigants in summary judgment cases, for example, rarely recover the amount of the delinquent rent so they are placed at a disadvantage at the outset of the filing of papers because they cannot make up for the cost of the filing fees.

Your Committee encourages further discussion in this regard as this measure progresses through the legislative process.

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. 3422, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

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

BRIAN T. TANIGUCHI, Chail

The Senate Twenty-Fourth Legislature State of Hawaii

Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	Committee Referral:		Da	ate:	7-14
HB 3422 HD2	JDL, WAM			3/	/ 9
The committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye /	Aye (WR)	Nay	Excused
TANIGUCHI, BRIAN T. (C)		V			
HEE, Clayton (VC)					
GABBARD, Mike					
KOKUBUN, Russell S.			/		
NISHIHARA, Clarence K.			V		
SLOM, Sam				W	
TOTAL		2			2
Recommendation: Adopted 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