

STAND. COM. REP. NO.

3435

Honolulu, Hawaii

APR 04 2008

RE: H.B. No. 3386
H.D. 1
S.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. 3386, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ATTORNEYS,"

begs leave to report as follows:

The purpose of this measure is to provide procedures in
potential conflict of interest situations involving the State
Attorney General in the representation of any court or judicial or
legislative office of the State.

Your Committee received testimony in support of this measure
from the Judiciary and the Hawaii Association of Public
Accountants. Comments were received from the Hawaii Association
of Realtors, Niwao & Roberts, State Farm Mutual Insurance Company,
and the National Association of Insurance and Financial Advisors.
Testimony in opposition was received from the State Attorney
General.

Your Committee finds that ethical conflict of interest may
preclude the State Attorney General from representing two or more
state entities simultaneously in the same matter. A typical
example is legislative investigative committees which have a state
department or agency as the subject of the investigation. The
State Attorney General has the duty, pursuant to section 26-7,
Hawaii Revised Statutes, to provide legal services to the
Governor, Legislature, and state departments. However, this duty
must be balanced against Rule 1.7, Conflict of Interest: General

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Rule, of the Hawai'i Rules of Professional Conduct as adopted and promulgated by the Hawaii Supreme Court, which does provide some leeway for representation in spite of a potential conflict of interest upon specified conditions and procedures.

Your Committee has amended this measure by:

- (1) Adding an exemption for the Department of Taxation to hire its own attorneys for limited circumstances, on the recommendation of the Department of Taxation;
- (2) Adding a definition of "practice of law", on the recommendation of the Hawaii Association of Realtors;
- (3) Changing the effective date to July 1, 2050, to continue the discussions on the definition of the "practice of law" among the accountants, insurers, realtors, and the Hawaii State Bar Association; and
- (4) Making technical, nonsubstantive amendments for purposes of clarity and style.

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. 3386, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3386, H.D. 1, S.D. 2.

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


BRIAN T. TANIGUCHI, Chair



