Honolulu, Hawaii

FEB 2 6 2010

RE: S.B. No. 2151
    S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Judiciary and Government Operations, to which was referred S.B. No. 2151 entitled:

"A BILL FOR AN ACT RELATING TO APPELLATE JURISDICTION,"

begs leave to report as follows:

The purpose of this measure is to:

(1) Expand the category of cases directly appealable to the Hawaii Supreme Court;

(2) Make discretionary the transfer to the Supreme Court of appeals involving questions of imperative or fundamental public importance; and

(3) Repeal the sunset of Act 202, Session Laws of Hawaii 2004, which restructured the appellate courts, making the Supreme Court a certiorari court.

Testimony in opposition to the measure was submitted by one state agency. Comments regarding the measure were submitted by the Judiciary. Written testimony presented to your Committee may be reviewed on the Legislature's website.

Your Committee finds that, by expanding the category of cases directly appealable to the Supreme Court, direct appeals will resolve the litigation of priority and public impact cases more quickly, will relieve the Intermediate Court of Appeals (ICA) of some part of its current caseload, and will eliminate likely

2010-1164 SSCR SMA.doc

applications requesting transfer of these cases from the ICA to the Supreme Court. Your Committee notes that testimony reflected concerns about the measure's amendment of the provision regarding direct appeal for cases involving a sentence of life imprisonment without the possibility of parole. Given the severity of the potential punishment, your Committee believes that a thorough review should be available, by allowing a litigant to seek review in the ICA or the Supreme Court, or both.

Your Committee has amended this measure by:

(1) Making revisions suggested by the Judiciary, which include deleting the proposed amendments to section 602-58, Hawaii Revised Statutes, that would have:

(A) Made cases involving a sentence of life imprisonment without the possibility of parole directly appealable to the Supreme Court, rather than mandatorily transferable to the Supreme Court upon application; and

(B) Made the transferability of cases involving questions of imperative or fundamental public importance to the Supreme Court upon application discretionary, rather than mandatorily transferable to the Supreme Court upon application; and

(2) Making other technical, nonsubstantive amendments for purposes of style.

As affirmed by the record of votes of the members of your Committee on Judiciary and Government Operations that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2151, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Government Operations,

_____
BRIAN T. TANIGUCHI, Chair

Record of Votes
Committee on Judiciary and Government Operations
JGO

Bill / Resolution No.:*	Committee Referral:	Date:
SB 2151	JGO	2/10/10

☐ 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)	✓			
TAKAMINE, Dwight Y. (VC)	✓			
BUNDA, Robert				✓
GABBARD, Mike	✓			
NISHIHARA, Clarence K.	✓			
SLOM, Sam	✓			
TOTAL	5	0	0	1

Recommendation: ☑ Adopted   ☐ Not Adopted

Chair's or Designee's Signature:

[signature]

Distribution: Original   Yellow   Pink   Goldenrod
           File with Committee Report   Clerk's Office   Drafting Agency   Committee File Copy

*Only <u>one</u> measure per Record of Votes

Revised: 12/18/08