

Honolulu, Hawaii

APR 08 2011

RE: H.B. No. 1376
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 1376 entitled:

"A BILL FOR AN ACT RELATING TO EVIDENCE,"

begs leave to report as follows:

The purpose and intent of this measure is to make permanent
the news media privilege by repealing the sunset date of Act 210,
Session Laws of Hawaii 2008.

Your Committee received testimony in support of this measure
from the Media Council of Hawai'i, Society of Professional
Journalists, American Civil Liberties Union of Hawai'i, The League
of Women Voters of Hawaii, Common Cause Hawaii, Hawaii Reporter,
and three individuals. Your Committee received comments on this
measure from the Judiciary.

Act 210, Session Laws of Hawaii 2008, provides a news media
privilege to protect journalists and newscasters from testifying
or producing evidence to disclose:

- (1) The source, or information that could reasonably be
expected to lead to the discovery of the identity of the
source, of any published or unpublished information
obtained while gathering, receiving, or processing
information for communication to the public; or



- (2) Any unpublished information obtained or prepared while gathering, receiving, or processing information for communication to the public.

Your Committee finds that further information is necessary to determine whether to remove the sunset date and make Act 210, Session Laws of Hawaii 2008, permanent or otherwise make amendments to that Act. Your Committee notes the testimony of the Judiciary, which states:

"The Standing Committee on Rules of Evidence was established by the Chief Justice on 15 July 1993 "to study and evaluate proposed evidence law measures referred by the Hawaii Legislature, and to consider and propose appropriate amendments to the Hawaii Rules of Evidence." Whether or not to retain a journalists' privilege is a question that should be addressed, in the first instance, to the Supreme Court's Standing Committee on Rules of Evidence. Accordingly, the committee requests that the Legislature, recognizing the principle of shared governance of the Hawaii Rules of Evidence, refer this matter to the evidence rules committee for interim study and a full report in advance of the convening of the 2012 Legislature."

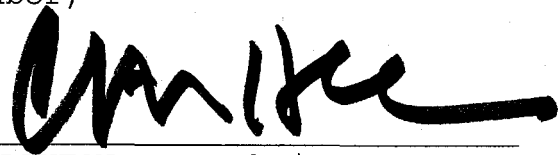
Accordingly, your Committee has amended this measure by:

- (1) Extending the sunset date of Act 210, Session Laws of Hawaii 2008, to June 30, 2013, rather than making the news media privilege permanent at this time; and
- (2) Requiring the Judiciary, through its Standing Committee on Rules of Evidence, to report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2012, information and recommendations regarding Act 210, Session Laws of Hawaii 2008.

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. 1376, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1376, 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
Labor,

A handwritten signature in black ink, appearing to read "Clayton Hee", written over a horizontal line.

CLAYTON HEE, Chair



The Senate
Twenty-Sixth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB 1376	Committee Referral: JDL	Date: 4-7-11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les	✓			
SLOM, Sam	✓			
TOTAL	5	—	—	—
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy

***Only one measure per Record of Votes**