

# S.B. NO. 2723

JAN 25 2012

## A BILL FOR AN ACT

RELATING TO GOVERNMENT TORT LIABILITY.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1       SECTION 1. The purpose of this Act is to amend Section  
2       662-5, Hawaii Revised Statutes, to afford the State of Hawaii  
3       with the same right to elect a jury trial in tort actions  
4       brought pursuant to chapter 662, Hawaii Revised Statutes, as  
5       private individuals have in tort actions.

6       SECTION 2. Section 662-5, Hawaii Revised Statutes, is  
7       amended to read as follows:

8       "~~§662-5~~ **Jury.** [~~Any~~] (a) Except as provided in  
9       subsection (b), any action against the State under this chapter  
10      shall be tried by the court without a jury; provided that the  
11      court, with the consent of all the parties, may order a trial  
12      with a jury whose verdict shall have the same effect as if trial  
13      by jury had been a matter of right.

14      (b) The State may demand trial by jury in any action  
15      against it under this chapter; provided that the demand is made  
16      in the same manner as a private individual in a tort action."

17      SECTION 3. Statutory material to be repealed is bracketed  
18      and stricken. New statutory material is underscored.

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1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

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BY REQUEST

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**Report Title:**

Government Tort Liability

**Description:**

Amends section 662-5, Hawaii Revised Statutes, to allow the State of Hawaii to demand a trial by jury in the same manner as a private individual in a tort action.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO GOVERNMENT TORT LIABILITY.

PURPOSE: The purpose of this bill is to allow the State of Hawaii to demand a trial by jury in any action against it in the same manner as a private individual in a tort action.

MEANS: Amend section 662-5, Hawaii Revised Statutes.

JUSTIFICATION: Section 662-5 currently provides that any action against the State of Hawaii shall be tried without a jury. The State should have the right to demand a jury trial in the same manner as an individual, private entity, or the counties. In cases where there are multiple defendants, this amendment would allow the State to make a jury demand which would eliminate the possibility of inconsistent verdicts since, under the current law, the judge renders a verdict with regard to the State only and the jury renders a verdict for the other parties.

Impact on the public: The public in general will benefit from a more equitable and fair trial system where the State will have the same right to choose a jury as an individual, private entity, and the counties. Since taxpayers' money will be at stake, the State should not be on unequal footing with any other party to the litigation.

Impact on the department and other agencies: The State and all its agencies will benefit from a more equitable and fair trial system where the State is a party to litigation.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.