

STAND. COM. REP. NO.

1046

Honolulu, Hawaii

MAR 22 2021

RE: H.B. No. 185
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 185, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE JUDICIARY,"

begs leave to report as follows:

The purpose and intent of this measure is to appropriate funds for the Judiciary for the fiscal biennium beginning July 1, 2021, and ending June 30, 2023.

Your Committee received testimony in support of this measure from the Judiciary; Hawai'i State Bar Association; Hawai'i State Bar Association Appellate Section; Hawai'i State Bar Association Family Law Section; Farrell & Perrault, LLC; and Law Office of Georgette A. Yaindl, LLC. Your Committee received comments on this measure from the Office of the Public Defender, Hawaii County Bar Association, and one individual.

Your Committee finds that the appropriations made by this measure are intended to assist the Judiciary in its efforts to fulfill its constitutional and statutory duties for the 2021-2023 fiscal biennium, but your Committee also notes concerns raised in testimony and by committee members during the hearing relating to appropriations made to the Office of the Public Defender.



Your Committee further finds that the Judiciary is tasked with serving as a neutral arbiter in judicial proceedings, and that having public defenders represent defendants in court when the public defender is a part of the same judicial organization as the judge could raise the appearance of a conflict of interest. Additionally, a transfer of the Office of the Public Defender from an executive agency to the Judiciary could result in legal challenges on constitutional grounds. Your Committee also finds that an effective transfer of the Office of the Public Defender from the Department of Budget and Finance to the Judiciary would require an amendment to section 802-8, Hawaii Revised Statutes, and that appropriations to the Office should be restored to the executive budget.

Accordingly, your Committee has amended this measure by:

- (1) Removing the appropriation to the Office of the Public Defender;
- (2) Re-inserting capital improvement project appropriations in the amount of \$40,621,000 for the 2021-2023 fiscal biennium; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 185, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 185, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

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



KARL RHOADS, Chair



