

STAND. COM. REP. NO.

3175

Honolulu, Hawaii

MAR 21 2024

RE: H.B. No. 1805
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2024
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1805, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE PROCEDURE FOR PAYMENT UNDER PROTEST LAWSUITS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow for the interest earned on payments under protest in the Litigated Claims Fund to be paid in nontaxation cases if the claimant prevails; and
- (2) Establish a procedure for the disposition of moneys and refiling of actions when a payment under protest suit is filed prematurely.

Your Committee received comments on this measure from the Department of Taxation and Tax Foundation of Hawaii.

Your Committee finds that if a taxpayer pays money under protest but then sues for a refund before the defendant agency has formally taken a position on whether the money is due, the appeal is to be dismissed. However, if the agency later decides that the money is indeed due, it is usually too late for the suit to be refiled, potentially allowing the agency to keep the disputed



moneys as a government realization without allowing the taxpayer to obtain a judicial ruling on the merits of the exaction. This measure will prevent the possibility of injustice by adding procedural safeguards to ensure that the courts will be able to reach the merits of the dispute.

Your Committee has amended this measure by:

- (1) Requiring the refiling of a premature action to recover payment of taxes paid under protest to be brought within a thirty-day period after a final agency decision is made instead of within two years; and
- (2) Making it effective upon its approval.

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. 1805, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1805, 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,

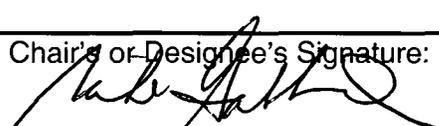


KARL RHOADS, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* HB 1805 HD1	Committee Referral: JDC, WAM	Date: 03/15/24		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
ELEFANTE, Brandon J.C.	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton				✓
TOTAL	4	—	—	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes