

Honolulu, Hawaii

FEB 12 2025

RE: S.B. No. 796
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 796 entitled:

"A BILL FOR AN ACT RELATING TO CLAIMS AGAINST THE STATE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit claims for refunds, reimbursements, or other payments, authorization for which is sought from the Legislature that exceed the time limitations of section 40-68, Hawaii Revised Statutes, from being claimed;
- (2) Require the Attorney General to include in the Attorney General's annual report of claims recommended for approval a list of possible claims against the State that have not yet settled;
- (3) Require the Attorney General's report to the Legislature describing the claims against the State to include additional information; and
- (4) Require the Attorney General to submit a report every five years to the Legislature containing further incidents that occurred in an agency that led to a claim.



Your Committee received comments on this measure from the Department of the Attorney General.

Your Committee finds that the legislature is required to address two types of claims for relief against the State: judgements or settlements in cases that have been brought in courts and claims for payment of outstanding or uncashed checks. For outstanding or uncashed checks, under section 40-68, Hawaii Revised Statutes, a check is presumed paid within a one-year period after issuance. However, if the check is not submitted for payment, the claimant has an additional window in which the check is required to be paid. In some instances, the administrative process for this category of payments involves payments from a capped trust fund, and if a large check is presented for payment, the fund may be depleted. Your Committee further finds that, in those instances, it is recommended that the claimant present the claim through the legislative relief process to ensure there are adequate funds in the trust fund to pay out on other claims.

Your Committee further finds that even if a claimant's claim for relief exceeds the statutory time for payment on an outstanding check, that claimant is then referred to the legislature for relief under section 37-77, Hawaii Revised Statutes, which has a longer period in which the claim may be submitted. In other words, a claimant is given another bite at the apple despite not having submitted the check in a timely fashion twice before. This measure will prohibit a claimant from submitting a claim for reissuance under section 37-77, Hawaii Revised Statutes, that has already expired under section 40-68, Hawaii Revised Statutes, while also providing the Legislature with additional, necessary information about cases involving judgements and settlements to better understand the depth of the potential liability of the State and the challenges facing state agencies in ensuring that remedial actions are being taken and effective.

Your Committee notes the concerns raised by the Department of the Attorney General. Specifically, that requiring the Attorney General to include a list of possible claims against the State that have not yet settled would require the Department of the Attorney General to provide a list of all lawsuits and claims



currently pending at the Department, which would be of little to no value to the Legislature.

Your Committee further notes the Department of the Attorney General's concerns regarding language that would require the Attorney General to set timelines for departments to implement the Attorney General's recommended actions and determine whether each department's implementation of the recommended actions was timely. Your Committee notes that the Attorney General is not authorized to establish timelines for other departments to implement or complete actions or require another department to take any particular action.

Accordingly, your Committee has amended this measure by:

- (1) Requiring the Attorney General to include in the Attorney General's annual report of claims recommended for approval a total dollar amount of possible judgments against the State that have not yet settled, instead of a list of possible claims against the State that have not yet settled; and
- (2) Clarifying that the Attorney General is required to recommend a timeline to a department to complete a recommended action to prevent a similar type of claim from occurring in the future.

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 S.B. No. 796, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 796, 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



