

STAND. COM. REP. NO.

980

Honolulu, Hawaii

MAR 24 2011

RE: H.B. No. 382
H.D. 2
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. 382, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose and intent of this measure is to provide the Auditor with the tools necessary to conduct the Auditor's statutory and constitutional responsibilities. Specifically, this measure:

- (1) Provides explicit authority to the Auditor to inspect all accounts, books, records, files, papers, and documents and all financial affairs of the Department of Taxation;
- (2) Requires the Auditor to implement internal policies to protect the confidentiality of private personal information contained in tax returns; and
- (3) Provides identical penalty provisions applicable to employees of the Department of Taxation for disclosure of tax information to the Auditor or Auditor's agent.

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

2011-1856 SSCR SMA.doc



Your Committee finds that the Auditor has the constitutional and statutory authority to conduct post-audits of the transactions, accounts, programs, and performance of all departments, offices, and agencies of the State and its political subdivisions. However, questions have been raised by the Department of Taxation regarding the Auditor's authority and ability to review tax returns and other records on file with the Department of Taxation, which has hindered the ability of the Auditor's office to conduct its work.

Your Committee also finds that this measure is not in conflict with any federal provisions regarding confidentiality of tax records. Your Committee understands that the Department of Taxation would prefer a statutory requirement that any disclosures to the Auditor be made pursuant to a written agreement between the Department and the Auditor. Your Committee believes, however, that such a statutory requirement is unnecessary due to the fact that the Auditor's office has its own strict confidentiality protocols in place. Your Committee believes that the Auditor and the Department of Taxation will cooperate in ensuring that tax records and tax information are thoroughly protected from intentional and inadvertent disclosures.

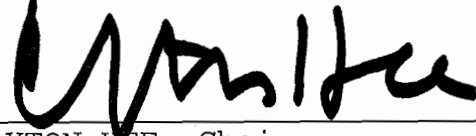
Your Committee has amended this measure by:

- (1) Adding language specifying to which materials the Department of Taxation shall provide access to the Auditor upon request;
- (2) Inserting an effective date of July 1, 2050, to allow for further discussion; 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 and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 382, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 382, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.



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



CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* HB382, HD2	Committee Referral: JDL, WAM	Date: 3/22/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <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
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 Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes