

Honolulu, Hawaii

, 2011

APR 29 2011

RE: S.B. No. 34
S.D. 1
H.D. 1
C.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the Senate to the amendments proposed by the House of Representatives in S.B. No. 34, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAX APPEALS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to amend the procedures for small claims heard in the Tax Appeal Court by:

- (1) Prohibiting pretrial discovery without the prior written approval of the Tax Appeal Court;
- (2) Limiting costs and fees that may be awarded to the prevailing party to fees paid directly to the Tax Appeal Court in the course of conducting the tax appeal at issue; and



- (3) Requiring that a notice of appeal from a decision involving a county as a party and a copy of the statement of the facts of the case that is filed by a protesting taxpayer to be served on the Real Property Assessment Division of the county involved.

Your Committee on Conference finds that while the small claims tax appeal process resolves disputes over small sums that are less than \$1,000 in an informal manner, existing rules allow pre-trial discovery even in these very small cases. Those taxpayers seeking a hearing may be inundated with voluminous written interrogatories, requests for admissions, demands for written disclosures of witness, and requests for depositions by opposing counsel. Taxpayers have no way to deal with matters like these because they are not likely to be represented by attorneys who are skilled in litigation techniques and who can therefore understand and respond to the requests.

Additionally, existing law could leave a taxpayer liable for all of the prosecuting entity's costs. For these small cases, the costs may dwarf the actual amount in dispute. Your Committee on Conference finds that this measure would clarify and limit the award of costs to those actually paid to the court, thereby leveling the playing field between taxpayers and the government.

Your Committee on Conference has amended this measure by:

- (1) Changing the effective date to July 1, 2011; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of S.B. No. 34, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 34, S.D. 1, H.D. 1, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE HOUSE

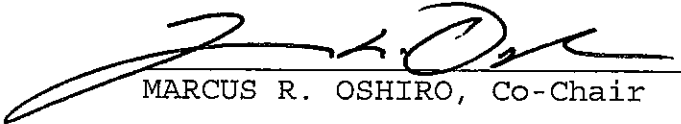
ON THE PART OF THE SENATE



BLAKE K. OSHIRO, Co-Chair



CLAYTON HEE, Chair



MARCUS R. OSHIRO, Co-Chair



DAVID Y. IGE, Co-Chair



Hawaii State Legislature

Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: **SB 34, SD 1, HD 1** Date/Time: *4/28/11, 2:56 pm*

The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure

The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

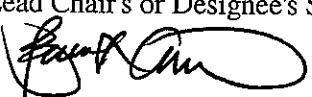
Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
HEE, Clayton, Chr.	✓				OSHIRO, Blake K., Co-Chr.	✓			
IGE, David Y., Co-Chr.	✓				OSHIRO, Marcus R., Co-Chr.	✓			<i>WR</i>
IHARA, Les, Jr.				✓	LUKE, Sylvia	✓			
SHIMABUKURO, Maile S.L.	✓				MCKELVEY, Angus L.K.	✓			<i>WR</i>
SLOM, Sam				✓	THIELEN, Cynthia	✓			
TOTAL	3			2	TOTAL	5			

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is:
 Adopted Not Adopted

House Recommendation is:
 Adopted Not Adopted

Senate Lead Chair's or Designee's Signature:


House Lead Chair's or Designee's Signature:


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