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**TESTIMONY OF  
DEPARTMENT OF THE ATTORNEY GENERAL  
NINETY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

H.R. 143, REQUESTING AN AUDIT OF ALL STATE DEPARTMENTS AND AGENCIES UTILIZING STATE FUNDS FOR OUTSIDE COUNSEL.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, March 24, 2015

**TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** WRITTEN COMMENTS ONLY. For more information, call  
Deputy Attorney General Diane Erickson, 586-0618

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Chair Rhoads and Members of the Committee:

The Attorney General clarifies that section 28-8.3(a), Hawaii Revised Statutes, specifically provides that agencies enumerated in that section may employ outside counsel for the purposes stated in the specific enumeration. For example, in section 28-8.3(a)(5), the Real Estate Commission is authorized to retain attorneys for any action involving the real estate recovery fund. In addition, section 28-8.3(c) provides that attorneys can be employed on a full-time basis by the agencies enumerated in that section and those full-time attorneys will not be deputy attorneys general.

State agencies are also authorized to obtain outside counsel pursuant to section 28-8.3(a)(22), when the Attorney General, with the Governor's waiver, declines to employ or retain an attorney for the requesting agency for reasons deemed by the Attorney General to be good and sufficient. Such reasons could include conflicts of interest.

The Attorney General can and does retain outside counsel on behalf of agencies in instances when the Attorney General determines that outside counsel should be retained because, for example, of the need for specialized expertise or knowledge.

Thank you for the opportunity to provide these comments.