

STAND. COM. REP. NO.

1137

Honolulu, Hawaii

March 17, 2017

RE: S.B. No. 889
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Labor & Public Employment, to which was referred S.B. No. 889, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO PROFESSIONALLY LICENSED OR CERTIFIED GOVERNMENT EMPLOYEES,"

begs leave to report as follows:

The purpose of this measure is to clarify personal tort liability of professionally licensed or certified employees of the State by:

- (1) Clarifying that the State shall be exclusively liable for civil tort claims resulting from the negligent or wrongful act or omission of a professionally licensed or certified employee of the State acting within the scope of the employee's office or employment;
- (2) Precluding civil actions or proceedings for money damages against the employee when the State agrees to assume full responsibility, except for claims based on liability other than an employee's scope of employment with the State or employment with an employer other than the State; and



- (3) Clarifying liability when the State agrees to assume full or partial responsibility in a civil action against a professionally licensed or certified employee.

The Department of Accounting and General Services; Department of Public Safety; Department of Health; Department of Taxation; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; and one individual testified in support of this measure. The Department of the Attorney General and Hawaii Association for Justice provided comments.

Your Committee has amended this measure by:

- (1) Clarifying language allocating liability to the State and the employee so that the State is not required to assume full liability for all damages caused by an employee, who shall remain personally liable for damages not assumed by the State, including for claims arising from employment with a non-State employer; and
- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

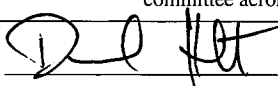
As affirmed by the record of votes of the members of your Committee on Labor & Public Employment that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 889, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 889, S.D. 2, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Labor & Public
Employment,


AARON LING JOHANSON, Chair



Record of Votes of the Committee on Labor & Public Employment

Bill/Resolution No.: SB 889, SD 2	Committee Referral: LAB, JUD, FIN	Date: 3/14/17		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
LAB Members	Ayes	Ayes (WR)	Nays	Excused
1. JOHANSON, Aaron Ling (C)	✓			
2. HOLT, Daniel (VC)	✓			
3. KEOHOKALOLE, Jarrett	✓			
4. NAKASHIMA, Mark M.	✓			
5. YAMASHITA, Kyle T.	✓			
6. MATSUMOTO, Lauren Kealohilani	✓			
TOTAL (6)	6			
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				