

STAND. COM. REP. NO.

230

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1345

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 1345 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURE,"

begs leave to report as follows:

The purpose of this measure is to provide fair compensation, including an automatic lease extension, for lessees when the Department of Land and Natural Resources withdraws, takes, or condemns any portion of the land preventing the lessee from using the land for the purposes for which it was originally leased.

Testimony in support of this measure was submitted by one organization and two public citizens. Testimony in opposition was submitted by one state agency. Copies of written testimony are available for review on the Legislature's website.

Your Committee finds that in order to effectuate the widening of Saddle Road, in the County of Hawaii, the Department of Land and Natural Resources established conservation easements on all or a portion of the lands of ranchers holding public land leases for pasture or special livestock use. Consequently, the lessee ranchers suffered serious financial losses.

In this regard, the Department of Land and Natural Resources determined that a conservation easement should be established on approximately six thousand acres of leased lands, preventing the lessees from grazing cattle on the land and effectively depriving the lessees of their use of the land. The Department of Land and Natural Resources reduced the lease rent in proportion to the

2009-1187 SSCR SMA.doc



taking of the land; however, according to information received by your Committee, the lessees who lost use of the land received no other compensation. The final report on discussions with affected ranchers in connection with the Saddle Road realignment project prepared in response to Act 236, Session Laws of Hawaii 2001, states that the United States Department of Transportation Highways Division will provide compensation to the existing lessees, however, according to the lessees, the Department of Land and Natural Resources took the position that because Hawaii law did not provide for any compensation, none was required. Despite the lack of compensation, the lessees are required by their leases to maintain insurance on the land and pay taxes for the land. In addition, several lessees had to reduce their herd and suffered a financial loss as a result of the sale of the cattle. One of the long-term effects of a reduced herd is that lessees cannot mitigate the long-term, fixed costs associated with operating a ranch in the way they anticipated when the lease was negotiated. Thus, the lessees experience financial hardship for an extended period of time that is not sufficiently mitigated by a reduction in lease rent.

According to some lessees, the banking industry took notice of the conservation easements and reduced their valuation of the lease interest. As a result, when lessees approach lenders for much needed capital, the banks do not recognize the leasehold as an asset.

Your Committee believes that by providing an automatic lease extension when a withdrawal, taking, or condemnation occurs, the lessees will be provided with a greater likelihood of having their leases considered as assets by lenders. This will in turn assist the lessees with attaining much needed capital.

The intent of this measure is to prevent similar situations as the Saddle Road withdrawal in the future. This measure is also intended to better provide for the viability and survival of Hawaii's agricultural producers.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1345 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.



230

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,



CLAYTON HEE, Chair



