

STAND. COM. REP. NO.

2920

Honolulu, Hawaii

MAR 30 2010

RE: S.C.R. No. 70
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.C.R. No. 70 entitled:

"SENATE CONCURRENT RESOLUTION AUTHORIZING THE SALE OF STATE RECLAIMED LANDS AT KANEOHE, KOOLAUPOKO, OAHU, FOR BEACH ACCESS RIGHT-OF-WAY PURPOSES,"

begs leave to report as follows:

The purpose of this measure is to authorize the sale of state reclaimed lands at Kaneohe, Koolaupoko, Oahu, for beach access right-of-way purposes.

Testimony in support of this measure was submitted by one state agency. One member of the House of Representatives submitted testimony in opposition. Written testimony presented to the Committee may be reviewed on the Legislature's website.

The subject state reclaimed lands were developed as part of a channel-dredging project pursuant to a permit issued in 1939 by the Army Corps of Engineers in Kaneohe Bay. The reclaimed lands were set aside under Governor's Executive Order No. 3410 to the City and County of Honolulu for a beach park. However, the reclaimed lands do not have a sandy beach and maintenance of the parcel is difficult due to limited access. Thus, the City and County of Honolulu did not develop a beach park and has no objection to disposing of a portion of the reclaimed land to the abutting landowners. The reclaimed land abuts three different landowners: the Goulds, the Schreiners, and the City and County of Honolulu. The City and County of Honolulu would like to keep the



portion of the land that abuts their existing beach access right-of-way.

Your Committee finds that any fee simple sale or gift of state reclaimed land is subject to section 171-64.7, Hawaii Revised Statutes, which requires that a concurrent resolution be submitted to the Legislature for approval with specific information included. The specific information required includes the appraisal value of the land, the name of the appraiser, and the date of the appraisal. The Department of Land and Natural Resources did not conduct an appraisal for the portion of the reclaimed land to be gifted to the City and County of Honolulu. Without an opinion from the Attorney General to support the Department of Land and Natural Resources' position that an appraisal is not required under the law, your Committee has determined that the Concurrent Resolution is incomplete with regard to the gift to the City and County of Honolulu. Thus, your Committee authorizes the transfers to the Goulds and the Shreiners with this Concurrent Resolution, as amended. However, because there is no appraisal, as required by law, your Committee does not authorize the transfer to the City and County of Honolulu.

Your Committee has amended this measure by:

- (1) Clarifying the history of the subject state reclaimed lands and identifying the Tax Map Key Number;
- (2) Explaining that the Board of Land and Natural Resources action authorized by this Concurrent Resolution refers to three separate transfers of property;
- (3) Including the appraiser, appraisal value, and date of the appraisal for two of the subject transfers, as available;
- (4) Amending the Concurrent Resolution to reflect your Committee's decision to authorize two of the three transfers;
- (5) Inserting a provision to urge the Board of Land and Natural Resources to offer the Office of Hawaiian Affairs a right of first refusal to purchase the properties;
- (6) Amending its title to reflect the amended purpose;



- (7) Providing that a certified copy of the Concurrent Resolution has been transmitted to the Administrator of the Office of Hawaiian Affairs; and
- (8) Making technical, nonsubstantive changes for the purposes of consistency and clarity.

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 concurs with the intent and purpose of S.C.R. No. 70, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 70, S.D. 1.

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




CLAYTON HEE, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WTL

Bill / Resolution No.:* SCR 70	Committee Referral: WTL, WAM	Date: 3-5-10		
<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)	/			
TOKUDA, Jill N. (VC)	/			
BUNDA, Robert	/			
FUKUNAGA, Carol	/			
KOKUBUN, Russell S.				/
TAKAMINE, Dwight Y.				/
HEMMINGS, Fred				/
TOTAL	4	1	0	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align: center; font-size: 2em;"></div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes