

STAND. COM. REP. NO.

255

Honolulu, Hawaii

FEB 13 2013

RE: S.B. No. 1007
S.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Water and Land and Public Safety,
Intergovernmental and Military Affairs and Judiciary and Labor, to
which was referred S.B. No. 1007 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LAND LIABILITY,"

beg leave to report as follows:

The purpose of this Act is to amend Act 82, Session Laws of
Hawaii 2003 (Act 82), relating to public land liability, to amend
and clarify the definition of "improved public lands."

Your Committees received testimony in support of this measure
from the Department of Land and Natural Resources, Department of
the Attorney General, Corporation Counsel of the City and County
of Honolulu, and eleven individuals. Your Committees received
testimony in opposition to this measure from Hawaii Association
for Justice.

Act 82 established a process in which the State and counties
are provided protection from liability on improved public lands
when certain requirements are met. This measure ensures that the
intent of the Legislature to limit the liability of the State, as
well as to preserve the natural beauty of the parks for the use
and enjoyment of the public, is accomplished. This measure
balances the State's interest in posting warnings at developed and
maintained locations where it expects public access against the
competing interest of preserving access to the natural beauty of
the undeveloped areas of the park system by limiting the State's
liability consistent therewith.

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Act 82 as currently written, does not distinguish between parks and trails constructed, owned, and maintained by the State and counties and other lands that, although part of the state park system, are unimproved and not maintained by the State or counties. This measure would clarify that the State or counties do not have a duty to warn of dangerous natural conditions on public land that is part of the park system if the land is unimproved and not developed or maintained by the State or county.

This measure also defines and excludes "voluntary trails" from the definition of "improved public lands" since these unofficial trails and routes are created by members of the public without the knowledge or permission of the State or counties.

Your Committees have amended this measure by:

- (1) Deleting the reference to public beach park in the definition of "improved public lands" on the recommendation of the Corporation Counsel of the City and County of Honolulu; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.


As affirmed by the records of votes of the members of your Committees on Water and Land and Public Safety, Intergovernmental and Military Affairs and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1007, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1007, S.D. 1, and be referred to the Committee on Ways and Means.



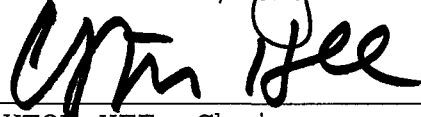
Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Public Safety,
Intergovernmental and Military
Affairs and Judiciary and
Labor,



WILL ESPERO, Chair



MALAMA SOLOMON, Chair




CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

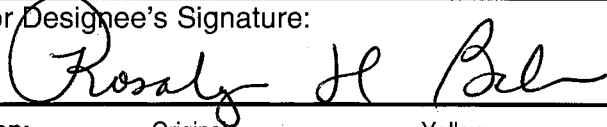
Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:*	Committee Referral:	Date:
SB 1007	WTL/PSM/JDL/WAM	2/5/13
<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	
SOLOMON, Malama (C)	✓	
SHIMABUKURO, Maile S.L. (VC)	✓	
DELA CRUZ, Donovan M.	✓	
IHARA, Jr., Les		✓
RUDERMAN, Russell E.		✓
THIELEN, Laura H.		✓
SLOM, Sam	✓	
TOTAL	4	3
Recommendation:		
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted		
Chair's or Designee's Signature:		
		
Distribution:		
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency
		Goldenrod Committee File Copy

*Only one measure per Record of Votes

The Senate
Twenty-Seventh Legislature
State of Hawai'i

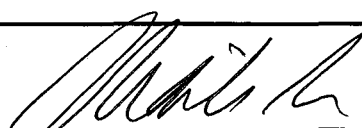
Record of Votes
Committee on Public Safety, Intergovernmental and Military Affairs
PSM

Bill / Resolution No.:* SB 1007	Committee Referral: WAM WTL/PSM/JDL,	Date: 2-5-2013		
<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
ESPERO, Will (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
GALUTERIA, Brickwood				✓
GREEN, Josh				✓
SLOM, Sam	✓			
TOTAL	3	-	-	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:* SB1007	Committee Referral: WTL/PSM/JDL, WAM	Date: 2/5/13		
<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)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike				✓
IHARA, Jr., Les				✓
SLOM, Sam	✓			
TOTAL	3			2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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