

Honolulu, Hawaii

APR 01 2013

RE: S.C.R. No. 168
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 Judiciary and Labor, to which was referred S.C.R. No. 168 entitled:

"SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, IN CONSULTATION WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, TO EXPLORE FEASIBLE OPTIONS RELATING TO LIABILITY FOR INJURY OR DAMAGE SUSTAINED WHILE MOUNTAIN CLIMBING, ROCK CLIMBING, RAPPELLING, AND BOULDERING ON PUBLIC LAND,"

beg leave to report as follows:

The purpose and intent of this measure is to urge the Department of Land and Natural Resources, in consultation with the Department of the Attorney General, to explore feasible options relating to liability for injury or damage sustained while mountain climbing, rock climbing, rappelling, and bouldering on public land.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources. Your Committees received comments on this measure from the Hawaii Association for Justice.

Your Committees find that there is an increasing trend in public recreation throughout the United States and Hawaii to pursue the activities of bouldering, rock climbing, mountain climbing, rappelling, and related activities that require special skills and equipment and specific geologic features with unique qualities. These climbing areas are often in remote areas,



sometimes only accessible through private property. It would not be possible, feasible, or desirable for the State to erect fences, post signs, or limit access to all of the potential remote and unmanaged areas that members of the public may use to engage in climbing activities.

Your Committees further find that because of the dangers inherent in climbing activities, injuries and accidents are inevitable, and the State will continually be open to lawsuits. The preferred action is not to close off sites, prohibit access, or impose fines when the public access a prohibited area; however, there may not be much choice if the State can be sued for every injury that occurs as a result of these climbing activities.

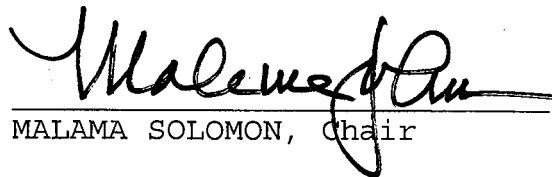
Your Committees have amended this measure by inserting language to urge the Department of Land and Natural Resources, in consultation with the Department of the Attorney General, to examine the possibility of requiring those engaging in mountain climbing, rock climbing, rappelling, and bouldering to obtain insurance through a rock climbing organization to protect the State from liability.

As affirmed by the records of votes of the members of your Committees on Water and Land and Judiciary and Labor that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 168, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 168, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Judiciary and Labor,



CLAYTON HEE, Chair



MALAMA SOLOMON, Chair



