

STAND. COM. REP. NO.

461

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 350  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawaii

Sir:

Your Committee on Agriculture and Environment, to which was referred S.B. No. 350 entitled:

"A BILL FOR AN ACT RELATING TO THE ENVIRONMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Fill the vacant Environmental Management Division chief staff position by October 1, 2021;
- (2) Require that the Clean Water Branch of the Environmental Management Division include, as part of its Hawaii beach monitoring program, water quality testing during brown water advisories;
- (3) Require the Department of Health issue health advisories during brown water advisories that explain the health risks associated with water runoff;
- (4) Require the Department of Health to take into consideration environmental justice issues in the assessment of use, when considering usage and public health risk for its determination and ranking of beaches for inclusion in Hawaii's beach monitoring program; and



- (5) Establish an Environmental Management Division Oversight Advisory Board to provide oversight and guidance to the Environmental Management Division.

Your Committee received testimony in support of this measure from the Surfrider Foundation Hawai'i Region, Surfrider Foundation - Oahu Chapter, Surfrider Maui Chapter, Hawai'i Youth Climate Coalition, Kauai Climate Action Coalition, Our Revolution Hawaii, Animal Rights Hawai'i, Pono Hawai'i Initiative, Kihei Community Association, Wastewater Alternatives and Innovations, Surfrider Foundation, Sierra Club of Hawai'i, Earthjustice, Friends of Maha'ulepu, Mālama Maunalua, Waiwai Ola Waterkeepers Hawaiian Islands, Center for Biological Diversity, Kia'i Wai o Wai'ale'ale, Polanui Hui Community Managed Market Area, Kaiola Canoe Club, WMPA, HAMER, Friends of Hanauma Bay, Windward Coalition for Community Concerns, Young Progressives Demanding Action Hawai'i, Hawaii Wildlife Fund, The Makali'i Group, Hui o He'e Nalu, HI Strikes Back, and fifty-two individuals. Your Committee received testimony in opposition to this measure from the Department of Health and one individual. Your Committee received comments on this measure from the Legislative Reference Bureau.

Your Committee finds that the Environmental Management Division of the Department of Health oversees the clean air, clean water, solid and hazardous water, wastewater, and safe drinking water branches of the Department of Health. The Division provides executive and functional leadership, policy, oversight, and coordination for these branches. Brown water advisories are issued by the clean water branch as preemptive, precautionary notice to the public of potential risks of entering coastal waters. Currently, there is minimal data to describe the pollution and health risks during brown water advisory conditions, leaving the public less informed of risks during pollution associated with brown water advisories. There are many locations that have elevated levels of fecal indicator bacteria after rain events and in brown water events. Without testing during brown water events, it is unknown which locations experience pollution spikes during heavy rains, thereby putting ocean users at risk and delaying the identification and enactment of needed pollution mitigation efforts. The United States Environmental Protection Agency Region 9 has also recommended to the Department of Health's Clean Water Branch that establishing a protocol to test in brown



water advisories would provide more accurate and comprehensive data regarding water quality.

This measure seeks to provide greater oversight and require increased water testing and communication of possible risks to ensure the public is informed as to when it is safe for them and their families to enter coastal waters. Your Committee finds that water quality continues to be of concern to residents and visitors and therefore conversations as to how to best protect the public and environment should continue between policy makers and stakeholders.

Your Committee has heard the concerns of the Department of Health that the Department anticipates that this position will be filled before October 1, 2021, after securing approval from the Governor to fill the position on December 25, 2020. Additionally, the Department has concerns that water quality testing during brown water advisories in addition to testing already performed on a regular basis would be unnecessary. As part of the Beaches Environmental Assessment and Coastal Health Act of 2000 (BEACH Act) monitoring program, the Clean Water Branch routinely monitor's beaches for enterococci and provides prompt notification to the public whenever there is an exceedance or likelihood of exceedance of recreational water quality standards. As a recipient of funding from the Environmental Protection Agency as part of the BEACH Act, adding monitoring during brown water advisories would require additional resources and allotted federal funds cannot accommodate the additional statewide laboratory analytical testing. The Department of Health also raised concerns about posting informational signs at all beaches impacted by brown water, especially on the neighbor islands. The Department of Health also raised reservations about the oversight advisory board, as it seems infeasible to assemble a board that can adequately and knowledgably oversee and provide guidance to the Clean Water Act, Safe Drinking Water Act, Clean Air Act, and the Resource Conservation and Recovery Act.

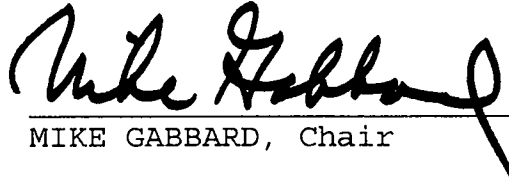
Your Committee has amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Agriculture and Environment that is attached to this



report, your Committee is in accord with the intent and purpose of S.B. No. 350, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 350, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committee on Agriculture and  
Environment,



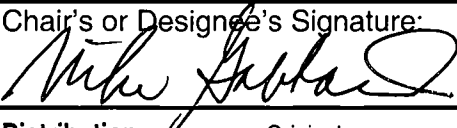
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MIKE GABBARD, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Agriculture and Environment**  
**AEN**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 350	AEN, WAM	02/17/2021		
<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
GABBARD, Mike (C)	✓			
NISHIHARA, Clarence K. (VC)	✓			
ACASIO, Laura	✓			
RHOADS, Karl	✓			
FEVELLA, Kurt	✓			
<b>TOTAL</b>	5			
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original             Yellow             Pink             Goldenrod File with Committee Report             Clerk's Office             Drafting Agency             Committee File Copy				

\*Only one measure per Record of Votes