

STAND. COM. REP. NO.

2037

Honolulu, Hawaii

FEB 05 2016

RE: S.B. No. 3071

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Ways and Means, to which was referred S.B. No. 3071 entitled:

"A BILL FOR AN ACT RELATING TO THE ACQUISITION OF MAKAI LANDS OF KAPUA IN SOUTH KONA ON THE ISLAND OF HAWAII,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Department of Land and Natural Resources, in consultation with The Trust for Public Land, to engage in negotiations to acquire lands located at Kapua, on the Island of Hawaii;
- (2) Authorize the purchase of the makai lands of Kapua to be funded wholly or in part by transient accommodations tax revenues; and
- (3) Make an appropriation for any additional amounts necessary for the acquisition.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, Aha Moku Advisory Committee, Pa'a Pono Miloli'i, The Trust for Public Land, The Nature Conservancy, and nine individuals. Your Committee received testimony in opposition to this measure from one individual. Your Committee received comments on this measure from the Tax Foundation of Hawaii.



Your Committee finds that the makai lands of Kapua in South Kona on the Island of Hawaii are a scenic wonder with breathtaking shoreline views. The makai lands comprise at least 6,000 acres in South Kona that are classified as agricultural or conservation land and are privately owned.

The makai lands contain significant historical, archaeological, and cultural resources, including a hōlua slide, ancient coastal trail, village sites, and superb biological resources including native dryland forests and native Hawaiian plants. As such, the State should seek to acquire the makai lands in the interests of preserving the area's pristine condition for future generations while ensuring the preservation of agricultural and conservation lands in the area.

Your Committee notes that concerns have been raised that there may be numerous unexploded ordnances in the area of the makai lands. It is your Committee's intent that the Department of Land and Natural Resources take this safety issue under consideration. At the hearing, the Department of Land and Natural Resources assured your Committee that as part of its due diligence, it will take any action and precautions necessary to address this potential issue.

Your Committee has amended this measure by:

- (1) Removing specific references to The Resort Group and directing the Department of Land and Natural Resources to negotiate with the current owners of the makai lands;
- (2) Clarifying that the term "acquire" or "acquisition" means to secure an interest in real property in fee simple or otherwise through means of purchase, sale, or exchange of other real property;
- (3) Identifying the appropriate tax map key numbers of the makai lands;
- (4) Adding language to require the Department of Land and Natural Resources to report to the Legislature beginning on July 1, 2016, and every three months thereafter on the status of the negotiations; provided that certain confidential information or information detrimental to the State's negotiating position shall not be disclosed;



- (5) Adding language directing the Department of Land and Natural Resources to attempt to reach an agreement for the acquisition of the makai lands by December 31, 2016, to notify the Governor and Legislature immediately after an agreement is reached, and provide proposed legislation, with an appropriation, if applicable, to effectuate the agreement;
- (6) Adding language to authorize the Department of Land and Natural Resources to continue negotiations after December 31, 2016, if necessary, and to continue to report to the Legislature quarterly until an agreement is reached or negotiations are terminated;
- (7) Inserting an appropriation in the amount of \$500,000 to the Department of Land and Natural Resources for the purpose of conducting due diligence on the makai lands, to include but not be limited to a determination of the likelihood that unexploded ordnances exist on any of the parcels of land;
- (8) Removing the allocation of transient accommodations tax revenues for the purchase of the makai lands and the mandate to fund the acquisition of the makai lands wholly or in part by transient accommodations tax revenues;
- (9) Removing the appropriation of additional funds for the acquisition of the makai lands; and
- (10) 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 Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3071, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3071, S.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



JILL N. TOKUDA, Chair



