

Honolulu, Hawaii  
MAR 16 , 2022

RE: S.B. No. 204  
S.D. 1  
H.D. 1

Honorable Scott K. Saiki  
Speaker, House of Representatives  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Water & Land, to which was referred S.B. No. 204, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES,"

begs leave to report as follows:

The purpose of this measure is to authorize the Department of Land and Natural Resources to use aquatic in-lieu fee mitigation to restore, create, enhance, or preserve aquatic habitats or resources where a person is required to provide compensatory mitigation either:

- (1) Prospectively, and the use of in-lieu fee mitigation is approved by the agency requiring mitigation; or
- (2) For past damages to aquatic habitats or resources.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources and Mahikū A'o Mai, LLC.

Your Committee finds that natural resource management agencies prefer third-party mitigation banks or in-lieu fee mitigation to permittee-responsible mitigation because these third-party mitigation bank or in-lieu fee sponsors are often



public or private entities with more experience, scientific expertise, and vested long-term interest in natural resource conservation. In-lieu fee mitigation is widely used across the United States to achieve ecologically valuable conservation by restoring wetland and stream habitats but has seen increasing national interest for use in improving coral reefs, sea grass, and estuarine habitats. The authority granted to the Department of Land and Natural Resources in this measure would allow Hawaii to become the first state in the nation to establish in-lieu fee mitigation for coral reefs.

Your Committee has amended this measure by:

- (1) Changing the effective date to July 1, 2050, to encourage further discussion; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Water & Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 204, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 204, S.D. 1, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on  
behalf of the members of the  
Committee on Water & Land,

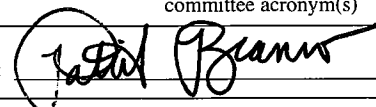


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DAVID A. TARNAS, Chair



Record of Votes of the Committee on Water & Land

<b>Bill/Resolution No.:</b> SB 204, SD 1	<b>Committee Referral:</b> WAL, JHA, FIN	<b>Date:</b> 3/15/2022		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
WAL Members	Ayes	Ayes (WR)	Nays	Excused
1. TARNAS, David A. (C)	✓			
2. BRANCO, Patrick Pihana (VC)	✓			
3. GANADEN, Sonny	/			
4. KOBAYASHI, Bertrand	/			
5. KONG, Sam Satoru	/			
6. MORIKAWA, Dee	/			
7. OHNO, Takashi	/			
8. McDERMOTT, Bob	/			
<b>TOTAL (8)</b>	<b>8</b>			
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <small style="margin-left: 150px;">committee acronym(s)</small>				
<b>Vice Chair's or designee's signature:</b> 				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				