

Honolulu, Hawaii

Feb 15, 2006

RE: H.B. No. 3056
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Water, Land, & Ocean Resources, to which was referred H.B. No. 3056 entitled:

"A BILL FOR AN ACT RELATING TO KAWAI NUI MARSH,"

begs leave to report as follows:

The purpose of this bill is to restore and rehabilitate the resources of Kawai Nui Marsh (Marsh) in Kailua, Oahu, by clarifying the issues regarding the transfer of marsh lands from the City and County of Honolulu (City) to the State. This bill requires the City to:

- (1) Comply with the requirements of Act 47, Session Laws of Hawaii 1998, regarding:
 - (A) The transfer of lands to the State by July 1, 2006;
 - (B) The completion of flood control projects; and
 - (C) The entering into an agreement for the State to manage the economic, ecological, and cultural resources of the Marsh;

and

- (2) Continue to maintain Kaelepulu Draining Channel and all feeder drains to that Channel.



Hawaii's senior United States Senator, the City's Departments of Design and Construction and Facility Maintenance, the United States Army Corps of Engineers (ACOE), Conservation Council for Hawaii, Windward Ahupuaa Alliance, and Hawaii's Thousand Friends testified in support of this bill. Ahahui Malama I Ka Lokahi supported the intent of this measure. The Department of Land and Natural Resources (DLNR) opposed this bill. A concerned individual offered comments.

Your Committee finds that this on-going delay between the City and State regarding the overall management of the Marsh could be addressed if the City were to maintain the flood control systems, including Kaelepulu Drainage Channel, Oneawa Canal, and the levee. Historically, flood control has been a county responsibility. Section 46-11.5, Hawaii Revised Statutes, clearly requires the counties to maintain channels, streambeds, streambanks, and drainageways. Your Committee further finds that DLNR lacks the expertise, resources, personnel, and experience for flood control maintenance. Its expertise lies in the management of the natural and cultural resources of the Marsh. Therefore, the maintenance of flood control duties should not be split between the City and the State, but should lie exclusively with the City.

After further consideration, your Committee has amended this bill by:

- (1) Amending Act 47 as follows:
 - (A) By excluding references to lot 2-b from the transfer of a parcel from the City to the State;
 - (B) By excluding the levee system that runs from Kailua Road to Oneawa Canal as part of the transfer of land to the State;
 - (C) By repealing the requirement that the transfer of land is contingent on the City and ACOE first having completed all pending flood control projects to DLNR's satisfaction; and
 - (D) By repealing the requirement that the City and State enter into a lease or agreement for DLNR to manage the economic, ecological, and cultural resources of the Marsh;




- (2) Deleting the provision that the City must comply with the requirements of Act 47 by July 1, 2006;
- (3) Transferring a parcel (TMK no. 4-2-13:22) to the State in fee simple;
- (4) Clarifying that the City and State may enter into an agreement for the maintenance or operations of any part of the Marsh;
- (5) Clarifying that nothing in this bill requires the State to maintain any flood control program relating to the Marsh;
- (6) Providing that should a dispute arise between the transfer of parcels from the City to the State, the State shall have an easement in perpetuity over those parcels that DLNR needs to manage the resources of the Marsh;
- (7) Appropriating \$1 for the City to maintain and operate a portion of the Marsh as agreed to by the various parties;
- (8) Requiring that all land transfers be completed by September 1, 2006;
- (9) Amending the purpose section to clarify the history of land transfers and to emphasize the importance for the State to assume primary responsibility over the resources of the Marsh; and
- (10) Making technical, nonsubstantive amendments for consistency, clarity, and style.

As affirmed by the record of votes of the members of your Committee on Water, Land, & Ocean Resources that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 3056, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 3056, H.D. 1, and be referred to the Committee on Finance.



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



EFRA R. KANOHO, Chair



