

Honolulu, Hawaii

MAR 21 2006

RE: H.B. No. 1706
H.D. 3
S.D. 1

Honorable Robert Bunda
President of the Senate
Twenty-Third State Legislature
Regular Session of 2006
State of Hawaii

Sir:

Your Committee on Energy, Environment, and International
Affairs, to which was referred H.B. No. 1706, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO THE UNIFORM ENVIRONMENTAL
COVENANTS ACT,"

begs leave to report as follows:

The purpose of this measure is to provide for environmental
covenants for contaminated property to ensure long-term compliance
with requirements needed to protect the public and environment
when complete removal of contaminants is not feasible, practical,
or necessary.

The Department of Health, the Hawaii Commission to Promote
Uniform Legislation, the Land Use Research Foundation of Hawaii,
and one individual submitted testimony in support of this measure.
The United States Department of the Army and Hawaiian Electric
Company, Inc. submitted comments.

Your Committee finds that this measure establishes a process
for creating and tracking environmental covenants and provides
enforcement authority to assure that owners of contaminated
property observe the required management controls placed on the
property by the Department of Health.

Upon further consideration, your Committee has amended this
measure by:



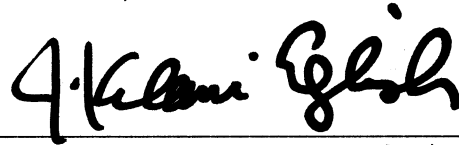
- (1) Changing any reference to "a municipality or other unit of local government" to "a county";
- (2) Clarifying that the agency shall determine the person who shall be required to provide a copy of an environmental covenant under the notice section;
- (3) Deleting the paragraph pertaining to an unrecorded interest in real property owned, operated, or maintained by a public utility or a provider of an essential public service;
- (4) Designating the holder as the party responsible for providing a copy of the final recorded covenant and other required documents to the Department of Health;
- (5) Clarifying that a holder may not assign the holder's interest without the consent of the other parties specified in subsection -9(a);
- (6) Changing the effective date to upon approval; and
- (7) Making technical, non-substantive amendments for clarity, consistency, and style.

Your Committee considered that the measure may affect the normal operation and maintenance of public utilities and other providers of essential public services that historically have located facilities on real property but have no recorded interest in the property, and that section -3(d)(5) was intended to remedy this. However, your Committee deleted that provision because it questions whether that provision circumvents the rights of property owners by creating an interest that the public utilities or other providers currently do not have or may not be entitled to in the real property.

As affirmed by the record of votes of the members of your Committee on Energy, Environment, and International Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1706, H.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1706, H.D. 3, S.D. 1, and be referred to the Committee on Judiciary and Hawaiian Affairs.



Respectfully submitted on
behalf of the members of the
Committee on Energy,
Environment, and International
Affairs,



J. KALANI ENGLISH, Chair



The Senate
Twenty-Third Legislature
State of Hawaii

Record of Votes of the
Committee on Energy, Environment and International Affairs
(Bills and Resolutions)

| | | | | |
|---|---------------------------------|-------------------------|------|---------|
| Measure:* HB 1706 HD3 (HSCR862-06) | Committee Referral: EIA, JHW | Date: March 16, 2006 | | |
| <input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____ | | | | |
| The Recommendation is to: <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 | Ayes | Ayes(WR) | Nays | Excused |
| ENGLISH, J. Kalani (C) | / | | | |
| KOKUBUN, Russell S. (VC) | / | | | |
| HANABUSA, Colleen | | | | / |
| HOOSER, Gary L. | / | | | |
| HEMMINGS, Fred | / | | | |
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| TOTAL | 4 | | | 1 |
| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Russell S. Kolt</div> | | | | |
| Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy | | | | |

*Do not list more than one measure per Record of Votes.