

STAND. COM. REP. NO. 1902

Honolulu, Hawaii

AJL 5, 2007

RE: S.B. No. 1603
S.D. 2
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1603, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO LIABILITY,"

begs leave to report as follows:

The purpose of this bill is to reduce the exposure of state and county governments to liability and keep public beach parks with potentially dangerous conditions open to the public by:

- (1) Making permanent certain liability protections for state and county governments relating to use of public beach parks; and
- (2) Providing state and county governments with a permanent exception from liability for the acts and omissions of county lifeguards while acting in the scope of employment.

The Department of the Attorney General, Department of Commerce and Consumer Affairs, Office of Hawaiian Affairs, State Fire Council, Hawaii State Association of Counties, Corporation Counsel of the City and County of Honolulu (Honolulu County), Emergency Services Department of Honolulu County, Mayor of the Hawaii County, a member of the Hawaii County Council, Department of Parks and Recreation of the County of Hawaii, Hawaii County Fire Department, Kauai County Fire Department, the Chair and a

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member of the Maui County Council, Department of the Corporation Counsel of Maui County, Hawaii Government Employees Association, Hawaiian Lifeguard Association, Hawaii Medical Association, and several concerned individual supported this bill. Department of Land and Natural Resources supported this bill in part. The Consumer Lawyers of Hawaii opposed this measure.

Your Committee has received prior concurrence from the Chair of your Committee on Water, Land, Ocean Resources, and Hawaiian Affairs to reinstate provisions that extend the sunset date of Act 82, Session Laws of Hawaii (SLH) 2003. As such, your Committee has amended this bill by:

- (1) Extending to 2010, the sunset date of Act 82, SLH 2003, which establishes a process by which the State and counties are provided protection from liability on improved public lands;
 - (2) Indemnifying county agencies when a state agency uses county facilities or avails itself of county aid or support;
 - (3) Changing the effective date to June 29, 2007, for the sections of this bill that:
 - (A) Make permanent certain liability protections for state and county governments relating to use of public beach parks; and
 - (B) Provide state and county governments with a permanent exception from liability for the acts and omissions of county lifeguards while acting in the scope of employment;
- and
- (4) Making technical, nonsubstantive changes for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1603, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1603, S.D. 2, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,




TOMMY WATERS, Chair



State of Hawaii
House of Representatives
The Twenty-fourth Legislature

HS 41902

Record of Votes of the Committee on Judiciary

Bill/Resolution No.: SB 1603, SD2, HD1, (HSCR 1446)		Date: 4/3/07		
Committee Referral: WLA, JUD		<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.		
The recommendation is to: <input type="checkbox"/> Pass, unamended <input checked="" type="checkbox"/> Pass, with amendments <input type="checkbox"/> Hold <input type="checkbox"/> Pass, with amendments, for recommittal for further consideration				
JUD Members	Ayes	Ayes (WR)	Nays	Excused
1. WATERS, Tommy (C)	/			
2. OSHIRO, Blake K. (VC)	/			
3. CALDWELL, Kirk	/			
4. EVANS, Cindy		/		
5. GREEN, Josh, M.D.	/			
6. ITO, Ken	/			
7. LUKE, Sylvia	/			
8. McKELVEY, Angus L.K.	/			
9. MORITA, Hermina M.	/			
10. SONSON, Alex M.	/			
11. SOUKI, Joseph M.	/			
12. TSUJI, Clift	/			
13. YAMANE, Ryan I.	/			
14. YAMASHITA, Kyle T.	/			
15. MARUMOTO, Barbara C.	/			
16. PINE, Kymberly Marcos				/
17. THIELEN, Cynthia	/			
TOTAL	15	1		1
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee Duplicate (Yellow) – HMSO Duplicate (Pink) – Clerk's Office				