

STAND. COM. REP. NO.

1305

Honolulu, Hawaii

MAR 23 2007

RE: H.B. No. 1899
H.D. 2
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred H.B. No. 1899, H.D. 2, entitled:

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

begs leave to report as follows:

The purpose of this measure is to require the City and County of Honolulu to transfer to the State parcels of land that constitute the Kawai Nui Marsh.

Testimony in support of this measure was submitted by the City and County of Honolulu, Department of Facility Maintenance, the Environmental Center of the University of Hawaii at Manoa, the Office of Hawaiian Affairs, the Hawaii Audubon Society, Hawaii's Thousand Friends, and two individuals. Testimony in opposition of this measure was submitted by the Department of Land and Natural Resources, 'Ahahui Mälama I Ka Lökahi, and the Windward Ahupua'a Alliance.

Your Committee finds that pursuant to Act 314, Session Laws of Hawaii 1990, the City and County of Honolulu was required to transfer specific parcels of land that constitute the Kawai Nui Marsh, of which both parties own portions, to the State. Your Committee further finds that since the enactment of Act 314, the parties have largely disputed their respective management responsibilities over the Kawai Nui Marsh, which has resulted in the delayed restoration and rehabilitation of the marsh placing the marsh in critical condition.

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The existing law has caused a great deal of problems and confusion with regard to responsibilities over the marsh. Your Committee believes that clarity in the law is necessary to allow for the transfer of the appropriate lands, while also providing some degree of flexibility in the specific terms of the agreements of the parties involved to accomplish the transfer and ensure responsibilities, including the maintenance of the marsh, are clearly delineated. Your Committee recognizes that negotiations between the City and County of Honolulu and the State are ongoing and amendments should be made in the future to reflect these changes.

Accordingly, your Committee has amended this measure by:

- (1) Repealing Act 314, Session Laws of Hawaii 1990;
- (2) Requiring the transfer of the Kawai Nui Marsh, lot 3, as shown on Land Division Parcel Map File No. 18-3-3-13, from the City and County of Honolulu to the State, pursuant to a sub-agreement executed in compliance with the Local Cooperation Agreement executed between the City and County of Honolulu and the U.S. Department of the Army for construction of the Kawai Nui Marsh Flood Control Project, dated October 3, 1993, as amended by Amendment #1 dated March 10, 2004, and the Operation and Maintenance Manual for Kawainui Swamp Flood Protection Works, prepared by the United States Army Corps of Engineers;
- (3) Including language that provides that the State's responsibility over the Kawai Nui Marsh shall be subject to agreement by the City and County of Honolulu to remain responsible as the principal party to and responsible for the Local Cooperation Agreement, the Operation Maintenance Manual for Kawanui Swamp Flood Protection Works, and all other matters provided for therein;
- (4) Clarifying that sums appropriated for the Department of Land and Natural Resources shall be to conduct or to contract for educational, ecological, cultural, and environmental services for Kawai Nui Marsh and its adjoining state areas;



- (5) Specifying that funds in the amount of \$500,000 for fiscal year 2007-2008 and \$420,000 for fiscal year 2008-2009 be appropriated for the Department of Land and Natural Resources to maintain the Kawai Nui Marsh or to contract with the City and County of Honolulu or any other public or private entity to maintain the Kawai Nui Marsh; and
- (6) Removing provisions that:
 - (A) Authorized the State and City and County of Honolulu from entering into an agreement for maintenance or operations of any part of Kawai Nui Marsh;
 - (B) Provided the State an easement in perpetuity over parcels identified in the Act for the purpose of permitting the Department of Land and Natural Resources to manage the economic, ecological, and cultural resources of the Kawai Nui Marsh in the event of a dispute between the State and the City and County of Honolulu; and
 - (C) Provided a savings clause regarding the validity of the Act or provisions thereof.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1899, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1899, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,

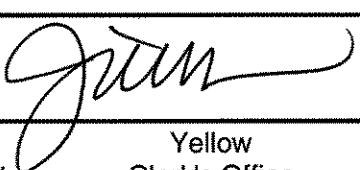
 for

RUSSELL S. KOKUBUN, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WAH

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 1899 HD2	WAH, WAM	3/21/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<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	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol				X
HEE, Clayton				X
SLOM, Sam	X			
TOTAL	3	0	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original	Yellow	Pink		
File with Committee Report	Clerk's Office	Drafting Agency		

*Only one measure per Record of Votes