

STAND. COM. REP. NO.

1028

Honolulu, Hawaii

MAR 02 2007

RE: S.B. No. 1276
S.D. 2

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

Madam:

Your Committee on Ways and Means, to which was referred S.B. No. 1276, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE ENVIRONMENT,"

begs leave to report as follows:

The purpose of this measure is to require the preparation of an environmental impact statement (EIS) for the expenditure of public funds for commercial harbor improvements to accommodate the Hawaii Superferry.

This measure also prevents Hawaii Superferry from commencing operations until mitigation measures recommended in the EIS are implemented by the Department of Transportation (DOT), and requires the DOT to assess reasonable costs incurred for the preparation of an EIS.

Your Committee received written comments in support of this measure from the Office of Hawaiian Affairs; Cetacean Society International; Hawaii PV Coalition; Sierra Club, Hawai'i Chapter; AANCart; American Friends Service Committee; Maui Outdoor Circle; Maui Clean Air Coalition; Surfrider Foundation; Maui Coral Reef Network; Helping Hands Hawaii; Maui Individualized Learning Center; People for the Preservation of Kaua'i; and Patrice Pendarvis Studio; and ninety individuals. Written comments in opposition was received from the Department of the Attorney General; Department of Transportation; Conferencehub Corp.; Kaua'i Chamber of Commerce; Maui Chamber of Commerce; Maui County Farm Bureau; Coloriginals; Clear Channel Radio Hawaii; Hawaii Oceanic

2007-2076 SSCR SMA-1.doc



Technology, Inc.; Ocean Marine Insurance Agency, Inc.; Hawaii Superferry; Over the Top Events; Pacific Sport Events and Timing; Help-U-Sell Paradise Realty; Love to Travel Tours; and eighty-four individuals.

Your Committee finds that state commercial harbor improvements that require the expenditure of large amounts of governmental funds should comply with the environmental review process. Your Committee is concerned that new maritime activities that require substantial harbor improvements, such as the Hawaii Superferry, could have serious effects on vehicular traffic, transport of non-native species between islands, introduction of invasive plant and animal species, increased collisions with whales, and increased warehousing at the harbors, among other issues, all of which have economic and environmental consequences that come within the scope of issues to be reviewed under the environmental impact statement law.

In addition to environmental concerns, your Committee has serious concerns about harbor and traffic congestion. Harbors on Oahu, Maui, and Kauai are so congested that the viability of Hawaii's shipping industry is threatened unless harbor improvements and expansion are immediately undertaken. Operations like the Hawaii Superferry would add to the congestion.

However, the Attorney General raised significant constitutional and legal issues in lengthy comments on this measure and concluded that the "passage of this measure may subject the State to substantial (but presently unquantifiable) liability."

Thus, your Committee has amended this measure by:

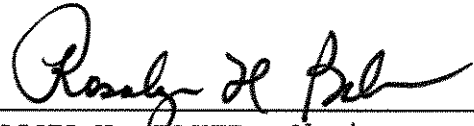
- (1) Rewording the purpose section to clarify that the intent of the measure is to reassert the Legislature's intent when it enacted the environmental impact statement law that the Legislature intended for major commercial harbor improvement projects to be subject to an environmental impact statement;
- (2) Deleting all references to the Hawaii Superferry and replacing it with a generic reference to any business or entity that proposes to operate or operates vessels that carry passengers and their vehicles between Hawaii's islands that require major commercial harbor improvements; and



- (3) Defining "major commercial harbor improvements" as any commercial harbor improvement project that requires the expenditure of over \$1,000,000 of public funds.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1276, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1276, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,




ROSALYN H. BAKER, Chair



The Senate
 Twenty-Fourth Legislature
 State of Hawaii

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1276	TIA/ENE, NAM	2/20/07		
<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 <small>2312</small>				
<input checked="" type="checkbox"/> Pass, with amendments <small>2311</small>				
<input type="checkbox"/> Hold <small>2310</small>				
<input type="checkbox"/> Recommit <small>2313</small>				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)		/		
TSUTSUI, Shan S. (VC)	/			
CHUN OAKLAND, Suzanne		/		
ENGLISH, J. Kalani	/			
FUKUNAGA, Carol		/		
HOOSER, Gary L.	/			
KIM, Donna Mercado			/	
MENOR, Ron	/			
TOKUDA, Jill N.		/		
HEMMINGS, Fred			/	
WHALEN, Paul				/
TOTAL	4	4	2	1
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