

STAND. COM. REP. NO.

1387

Honolulu, Hawaii

MAR 30 2007

RE: S.C.R. No. 25
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 S.C.R. No. 25 entitled:

"SENATE CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF A
TERM, NON-EXCLUSIVE SURFACE EASEMENT AT KAHALUU, NORTH KONA,
HAWAII,"

begs leave to report as follows:

The purpose of this measure is to seek prior legislative
approval for the Board of Land and Natural Resources to issue a
term, non-exclusive surface easement for encroachments on state-
owned submerged lands in Kahaluu, North Kona.

Testimony in support of this measure was submitted by the
Department of Land and Natural Resources and the Department of the
Attorney General.

According to certain Hawaii Supreme Court cases regarding
shoreline boundaries, it was held that foundation pilings were
installed on state-owned submerged lands during the construction
of the original Keauhou Beach Hotel in Kahaluu, North Kona. The
Board of Land and Natural Resources granted a term, non-exclusive
surface easement for the encroachment to Island Holidays, Ltd. in
1969. Since then, the easement has been assigned to various
entities, and most recently to KBH, Inc., a subsidiary of Bishop
Holdings, Inc., which is the for-profit development arm of
Kamehameha Schools. KBH, Inc. is seeking to simultaneously cancel
the original easement and enter into a new, term, non-exclusive
surface easement for sixty-five years from the Board of Land and

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Natural Resources to run concurrently with the sixty-five year ground lease KBH, Inc. is in negotiations to attain from Kamehameha Schools for the fast land portion of the property the hotel sits on.

Your Committee finds that under section 171-53, Hawaii Revised Statutes, the Board of Land and Natural Resources is required to seek prior approval of the Governor and prior authorization of the Legislature by concurrent resolution to issue an easement for state-owned submerged lands. This measure will fulfill this requirement and allow the Board of Land and Natural Resources to issue a term, non-exclusive surface easement to KBH, Inc.

Your Committee recognizes that negotiations are still in progress and requests that the Department of Land and Natural Resources communicate with the Senate President and the Speaker of the House of Representatives as negotiations proceed.

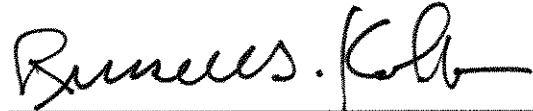
Your Committee has amended this measure by:

- (1) Requesting that the Department of Land and Natural Resources submit a written report to the Legislature on the appraised value of the portion of State-owned submerged lands the non-exclusive easement will cover, and the compensation for the easement; and
- (2) Making technical, nonsubstantive amendments for the purposes of consistency and style.

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 concurs with the intent and purpose of S.C.R. No. 25, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 25, S.D. 1.



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



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.:* <i>SCR 25</i>	Committee Referral: <i>WAH, WAM</i>	Date: <i>3/28/07</i>		
<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)	<i>✓</i>			
TOKUDA, Jill N. (VC)	<i>✓</i>			
FUKUNAGA, Carol				<i>✓</i>
HEE, Clayton	<i>✓</i>			
SLOM, Sam	<i>✓</i>			
TOTAL	<i>4</i>	<i>0</i>	<i>0</i>	<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-size: 2em;"><i>[Signature]</i></div>				
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*Only one measure per Record of Votes