

STAND. COM. REP. NO.

738

Honolulu, Hawaii

Feb 16, 2007

RE: H.B. No. 1905  
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 Water, Land, Ocean Resources & Hawaiian  
Affairs, to which was referred H.B. No. 1905, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DAM SAFETY,"

begs leave to report as follows:

The purpose of this bill is to ensure the safety of dams and  
reservoirs in the state by:

- (1) Allowing the Department of Land and Natural Resources  
(DLNR) to enter onto property, public or private, at  
reasonable times and without prior notice to inspect any  
dam;
- (2) Allowing DLNR to immediately employ remedial emergency  
measures if it deems any dam or reservoir to be  
dangerous to the health and safety of persons or  
property; and
- (3) Establishing a Dam and Reservoir Repair Revolving Fund  
to implement emergency measures and make dam repair  
loans to owners of dams or reservoirs.



It should be noted that House Bill No. 1905 was previously heard by your Committee on Water, Land, Ocean Resources & Hawaiian Affairs and was reported out with amendments. Upon motion to recommit House Bill No. 1905, H.D. 1, your Committee on Water, Land, Ocean Resources & Hawaiian Affairs published a notice of hearing and circulated a proposed H.D. 2 to further discuss issues regarding this bill. The proposed H.D. 2 revised H.D. 1 by:

- (1) Reinserting the certificate of approval process for all dams, existing and new, to be certified to impound water, with existing dams applying for certification and new dams applying to have their plans and specifications approved prior to construction;
- (2) Expanding the scope of the Hawaii Dam Safety Act (Act) to all dams and reservoirs;
- (3) Deleting the provisions establishing a Dam and Reservoir Repair Revolving Fund; and
- (4) Restoring the original definition of reservoir, that includes certain irrigation impoundments actively managed for agricultural purposes.

DLNR, the Attorney General, Alexander and Baldwin, Inc., Hawaiian Commercial & Sugar Company, Kauai Coffee Company, Inc., and the Jurassic Kahili Ranch supported the intent of this measure. Kamehameha Schools opposed this bill.

Your Committee has further amended the proposed H.D. 2 by requiring owners of high and significant hazard potential dams to establish and provide to the Board of Land and Natural Resources and state and county civil defense agencies an emergency action plan, and to require all dam owners regulated under the Act to cooperate with state and county authorities in providing access and operation and maintenance information.



In response to DLNR's concern regarding the provision that requires DLNR to maintain complete control of any dam or reservoir in a dangerous situation until it is deemed to be safe, that DLNR does not have the resources to maintain command of multiple dams in multiple locations, especially given that most of the dams and reservoirs are physically distant from the engineering division located in Oahu, your Committee has further amended the proposed H.D. 2 by requiring the owner to cooperate with local authorities such as the county civil defense agency and police and fire departments to implement the individual Emergency Action Plan. DLNR would be authorized to take control to avert any danger if these first responders do not.

Your Committee also notes that all the financial aspects of ensuring dam safety will be considered with in House Bill No. 652, which is referred to your Committee on Finance.

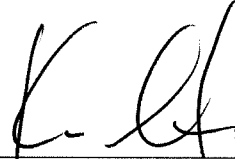
Your Committee notes that a suggestion was made that it may be better to revert the scope of dams under the Act from "all" to "certain" dams, to enable DLNR to concentrate their efforts on certain high hazard dams and reservoirs. Your Committee recommends that the Committee on Judiciary consider this suggestion, and notes that your Committee extends its prior concurrence to your Committee on Judiciary to make amendments to this measure in accordance with this suggestion.

In addition, your Committee notes that DLNR is requesting 6.5 full-time position to staff the dam division to properly carry out its duties under this bill, and recommends that the Committee on Judiciary further consider this request.

As affirmed by the record of votes of the members of your Committee on Water, Land, Ocean Resources & Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1905, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1905, H.D. 2, and be referred to the Committee on Judiciary.



Respectfully submitted on  
behalf of the members of the  
Committee on Water, Land, Ocean  
Resources & Hawaiian Affairs,



---

KEN ITO, Chair



