

Honolulu, Hawaii

Feb 15, 2008

RE: H.B. No. 2332

H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Sir:

Your Committee on Water, Land, Ocean Resources & Hawaiian Affairs, to which was referred H.B. No. 2332 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LANDS,"

begs leave to report as follows:

The purpose of this bill is to prohibit persons from transiting unencumbered public lands for any commercial activity without a conservation district use permit.

Specifically, this measure would prohibit persons from passing over or through unencumbered public lands for any commercial activity without first obtaining a conservation district use permit, unless the unencumbered land is within an area that is regulated through a management plan that permits the commercial activity. The measure also establishes specific criteria to be considered by the Board of Land and Natural Resources in determining whether to issue a conservation district use permit to transit unencumbered public lands for the purpose of a commercial activity. Further, the measure establishes fines for violations.

Testimony in support of this measure was submitted by Hawaii's Thousand Friends, Kahea, Hanalei-Ha'ena Community Association, the Conservation Council for Hawaii, and four concerned individuals. Testimony opposed to this measure was received by the Chamber of Commerce of Hawaii and the Ocean Tourism Coalition. The Department of Land and Natural Resources



and the Department of Business, Economic Development and Tourism supported the intent, but did not support the measure in its current form.

Your Committee finds that the increased transit across unencumbered public lands for commercial purposes has a detrimental effect on the environment, the land, and nearby communities. However, your Committee recognizes that restrictions on transiting unencumbered public lands must not be so broadly prohibitive as to stifle reasonable use of the land or have unintended consequences for other state goals or policies. Your Committee also finds that the conservation district use permit is used to regulate activities in a conservation district that constitute a land use under Chapter 183, Hawaii Revised Statutes; however, transiting across unencumbered land is not within the definition of "land use", and therefore, regulating transit across public land would be outside the scope of the permit process.

Your Committee further finds that the Board of Land and Natural resources should have the authority to establish penalties that are substantial enough to deter the prohibited use of public lands and adequately redress damages to natural resources that may result from prohibited uses.

Accordingly, your Committee has amended this measure by:

- (1) Restricting the scope of the measure to those unencumbered public lands within the conservation district;
- (2) Including governmental or community-based organizations with the Board of Land and Natural Resources as entities that may approve a management plan that permits a commercial activity within the conservation district;
- (3) Expanding the list of factors that the Board shall consider when determining whether to grant a permit to transit unencumbered public lands in the conservation district for a commercial activity;
- (4) Amending section 171-6(12), Hawaii Revised Statutes, to clarify that persons causing encroachments on public lands are liable for administrative costs and damages resulting from second and subsequent offenses;



- (5) Amending section 171-6(15), Hawaii Revised Statutes, to substantially increase fines for persons engaging in any prohibited use of public lands, conducting any prohibited activity on public lands or violating laws relating to management and disposition of public lands, and to impose fines to redress stolen or damaged natural resources;
- (6) Amending the definition of "land use" in section 183C-2, Hawaii Revised Statutes, to include "the transit of unencumbered lands in the conservation district for the purpose of conducting a commercial activity"; and
- (7) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.

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. 2332, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2332, H.D. 1, 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



