

Honolulu, Hawaii
Feb 15, 2008

RE: H.B. No. 2823
H.D. 2

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

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 2823, 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 limit the liability of owners, controllers, and operators of dams or reservoirs for personal injury or property damage from:

- (1) Water escaping from the dam or reservoir;
- (2) The failure or partial failure of the dam or reservoir, unless caused by the owner; and
- (3) Allowing the inflow to the dam or reservoir to pass through it and into a natural stream below the reservoir.

This bill also provides insurance requirements for dam and reservoir owners.

Dole Food Company Hawaii, Hawaii Farm Bureau Federation, Island Resources Ltd., Maui County Farm Bureau, and Kamehameha Schools testified in support of this bill. The Department of Land and Natural Resources, Consumer Lawyers of Hawaii, and two concerned individuals opposed this measure.



With prior concurrence from the Committee on Water, Land, Ocean Resources & Hawaiian Affairs, your Committee has amended this bill to exempt from protection against liability, owners and operators whose negligence has proximately caused personal injury or property damage resulting from water escaping from the dam or reservoir, or from allowing the inflow to the dam or reservoir to pass through it and into a natural stream below the reservoir.

Your Committee also notes that this bill does not take into account section 179D-4, Hawaii Revised Statutes, relating to liability for damages for owners and operators of dams and reservoirs, and thus has changed the effective date of this bill to January 1, 2112, to encourage further discussion.

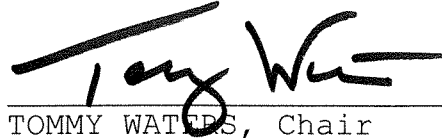
Your Committee has amended this bill by:

- (1) Clarifying that the provisions of this bill apply to owners and operators of dams and reservoirs;
- (2) Changing the minimum insurance requirements to unspecified amounts for each claim and all claims arising from one incident, to encourage further discussion;
- (3) Adding that the limitations on liability shall not apply to instances of gross negligence; intentional, willful, or wanton acts; or conduct in reckless disregard of public safety; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 2823, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.B. No. 2823, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



TOMMY WATERS, Chair



