

STAND. COM. REP. NO.

585

Honolulu, Hawaii

Feb 16, 2007

RE: H.B. No. 652

H.D. 1

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. 652 entitled:

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

begs leave to report as follows:

The purpose of this measure is to establish a program for monitoring and enforcing the safety of dams and reservoirs throughout the State.

Specifically, this measure:

- (1) Requires all dams, existing and to be constructed, to have a certificate of approval to impound water;
- (2) Requires applications for the certification of all existing dams;
- (3) Requires proposed new dams to submit plans and specification prior to construction for approval and requires subsequent construction to be done in accordance with the approved plans and specifications;
- (4) Allows officers and employees of the Department of Land and Natural Resources to enter upon land, public or private, at reasonable times but without prior notice, for the purpose of investigating the condition, construction, or operation of any dam;



- (5) Makes it unlawful for any person to refuse entry of any authorized representative of the Department of Land and Natural Resources to inspect any dam;
- (6) Allows the Department of Land and Natural Resources to obtain an order from the circuit court enjoining any person engaging in any unlawful act or practice that would violate chapter 179D, Hawaii Revised Statutes, relating to dam safety, or for an order requiring compliance with that chapter;
- (7) Allows the Department of Land and Natural Resources to take control of any dam and employ any remedial measures it deems necessary if it determines that the dam poses a danger to the health and safety of persons or property;
- (8) Establishes the dam safety special fund to administer the dam safety program and to undertake remedial measures necessary to protect persons and property;
- (9) Establishes the dam rehabilitation loan program to allow the Board of Land and Natural Resources to grant loans from the fund to dam owners to defray the costs of repairing dams that the Board deems are dangerous to the safety of persons and property but are not deemed to be an emergency situation;
- (10) Requires the Department of Land and Natural Resources to submit annual reports to the Governor and Legislature on the dam safety program;
- (11) Limits the liability of the Board of Land and Natural Resources, its officers, employees, and agents from any liability arising out of or caused by the construction, maintenance, operation, or failure of a dam, or the issuance of an order or rule issued or adopted by the Board to carry out the Board's responsibilities pursuant to chapter 179D, Hawaii Revised Statutes; and
- (12) Makes an unspecified appropriation for personnel and resources for the Department of Land and Natural Resources to implement this measure.

Your Committee received testimony in support of the intent of this measure from the Department of Land and Natural Resources,



Office of Hawaiian Affairs, and the Hawaii Farm Bureau Federation. One individual submitted comments.

Your Committee notes that House Bill No. 1905, containing many of the specific provisions contained in this bill has been heard by this Committee and will be reported out of this Committee for second reading in the House and, following approval, will be referred to your Committee on Judiciary for further consideration. However, House Bill No. 1905 does not contain provisions establishing the dam safety special fund, the dam rehabilitation loan program, or an appropriation.

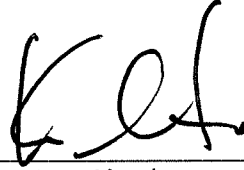
Accordingly, your Committee has amended this measure by:

- (1) Deleting many of the provisions contained in this measure that are also contained in House Bill No. 1905, but leaving in the provisions:
  - (A) Establishing the dam safety special fund;
  - (B) Establishing the dam rehabilitation loan program; and
  - (C) Making an appropriation to the Department of Land and Natural Resources for personal and resources to implement this measure;
- (2) Changing the effective date of this measure to July 1, 2050, to allow for further discussion on this measure; and
- (3) Making technical nonsubstantive changes for purposes of clarity and consistency.

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. 652, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 652, H.D. 1, and be referred to the Committee on Finance.



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



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KEN ITO, Chair



