

STAND. COM. REP. NO. 266

Honolulu, Hawaii
Feb 9, 2007

RE: H.B. No. 702
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 Energy & Environmental Protection, to which was referred H.B. No. 702 entitled:

"A BILL FOR AN ACT RELATING TO THE ENVIRONMENT,"

begs leave to report as follows:

The purpose of this measure is to:

- (1) Require the Department of Transportation to prepare an environmental assessment and possible environmental impact statement if the expenditure of public funds for improvements in commercial harbors throughout the State to accommodate the operations of the Hawaii superferry may have a significant effect on the State's environment;
- (2) Require the Department of Transportation to cease further construction of improvements in the commercial harbors to accommodate the operations of the Hawaii superferry and not allow the Hawaii superferry to commence operations until a finding of no significant impact is issued or a final environmental impact statement is accepted;
- (3) Require the Department of Transportation to implement any mitigative measures that may be recommended in the environmental assessment or environmental impact statement, including amending the operating agreement with the Hawaii superferry requiring the Hawaii



superferry to implement any recommended mitigative measures in its operations; and

- (4) Make an appropriation for the preparation of the environmental assessment and possible environmental impact statement.

Your Committee has received testimony in support of this measure from University of Hawaii Environmental Center, Maui County Council, Hawaii Islands Humpback Whale National Marine Sanctuary Advisory Council, Surfrider Foundation, and Sierra Club, Hawaii Chapter. Your Committee has further received overwhelming testimony in support of this measure from approximately sixty-eight individuals from throughout the State, especially from residents of the islands of Kauai and Maui. The Department of Transportation, Attorney General, Hawaii Superferry, Maui Chamber of Commerce, Land Use Research Foundation of Hawaii, and several individuals submitted testimony in opposition to this measure.

Your Committee notes that the Legislature finds that the Department of Transportation may have abused its discretion in determining that the expenditure of public funds for the improvements to commercial harbors throughout the State to accommodate the Hawaii superferry operations did not require an environmental review pursuant to chapter 343, Hawaii Revised Statutes. Your Committee is concerned that, as the accepting agency, the Department of Transportation may err in determining that the expenditure of public funds to support the Hawaii superferry operations may not have a significant impact on the State's environment. Accordingly, your Committee has amended this measure by:

- (1) Requiring that the Department of Transportation immediately begin with the preparation of an environmental impact statement and not an environmental assessment;
- (2) Allowing the Department of Transportation to continue with its improvements to the commercial harbors in support of the Hawaii superferry operations while the environmental impact statement is being prepared;
- (3) Deleting the appropriation provision;
- (4) Requiring that the Department of Transportation assess the Hawaii superferry for all reasonable costs incurred



in the preparation of the environmental impact statement; and

- (5) Making technical nonsubstantive changes for clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Energy & Environmental Protection that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 702 and recommends that it pass Second Reading in the form attached hereto as H.B. No. 702, H.D. 1, and be referred to the Committee on Transportation.

Respectfully submitted on
behalf of the members of the
Committee on Energy &
Environmental Protection,



HERMINA MORITA, Chair



