

STAND. COM. REP. NO.

1304

Honolulu, Hawaii

MAR 23 2007

RE: H.B. No. 1848
H.D. 2
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2007
State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred H.B. No. 1848, H.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES,"

begs leave to report as follows:

The purpose of this measure is to ensure that laws and rules relating to aquatic resources incorporate community input and cultural and traditional practices.

The measure accomplishes this purpose by requiring the Department of Land and Natural Resources to allow opportunities for impacted communities to provide input prior to establishing prohibitions or limitations on fishing in public fishing areas.

Specifically, this measure:

- (1) Requires the Department of Land and Natural Resources, prior to establishing new prohibitions or limitations on fishing in public fishing areas by rule, to demonstrate a scientific-basis for the rule and to fully engage any impacted communities and user groups early in the policy-making phase by amending chapter 190, Hawaii Revised Statutes;
- (2) Establishes a Fishery Policy Advisory Task Force to review the current rulemaking process of the Department



of Land and Natural Resources and to develop recommendations for changes and improvements; and

- (3) Appropriates funds for operations of the Fishery Policy Advisory Task Force.

Testimony in support of this measure was submitted by the Association of Hawaiian Civic Clubs, the Hawaii Boaters Political Action Association, the Hawaii Kai Boat Club, the Hawaii Nearshore Fishermen, the Island Shorecasters, the Kakaako Kasting Club, Nico's at Pier 38, eighty-three individuals, and a number of petitions with a combined total of eight hundred seventy-four signatures. Testimony in opposition to this measure was submitted by the Department of Land and Natural Resources; the Office of Hawaiian Affairs; the Nature Conservancy; the Sierra Club, Hawaii Chapter; the Sierra Club, Hawaii Chapter, Maui Group; the Hawaii Audubon Society; Mālama Maunaloa; the Kailua Hawaiian Civic Club; the Limahuli Garden and Preserve of the National Tropical Botanical Garden; the Maui Coastal Land Trust; Mālama Hawai'i; KAHEA: The Hawaiian-Environmental Alliance; the Conservation Council for Hawai'i; the Ocean Law and Policy Institute of the Pacific Forum CSIS; the Community Conservation Network; the Environmental Defense; and one hundred fifty-seven individuals.

A number of communities that rely on Hawaii's aquatic resources are disenfranchised with the current administrative rulemaking process used to develop marine management policies. These impacted communities and user groups of public fishing areas indicated to your Committee that there are limited opportunities for community input and engagement during the rulemaking process. Thus, your Committee finds that community engagement is an essential element when enacting rules that have an effect on community lifestyle, livelihood, culture, and tradition.

Over the past several years, many local communities have expressed interest in assisting in managing and restoring Hawaii's near shore reefs and marine habitats, and have initiated discussions regarding management, enforcement, and monitoring of the marine resources surrounding their communities. The Miloli'i community-based effort established the Maka'i O Ke Kai program, which is a partnership in marine resource enforcement, education, outreach, monitoring, and surveillance between local community members and the Department of Land and Natural Resources. Your Committee finds that community-based programs, like the Maka'i O Ke



Kai program, serve as vehicles for engaging local communities in the management of marine resources, and is a more appropriate approach to addressing community concerns regarding rules affecting fishing in public fishing areas.

Accordingly, your Committee has amended this measure by deleting the contents of this measure and replacing it with language that:

- (1) Adds a new part to chapter 188, Hawaii Revised Statutes, that establishes a Maka'i O Ke Kai program under the Department of Land and Natural Resources, Division of Aquatic Resources, which:
 - (A) Allows the Department to provide matching grants to any Maka'i O Ke Kai program to implement community-based marine management initiatives designed to restore, protect, sustainably manage, and apply traditional Hawaiian resource management to near shore reefs and marine habitats;
 - (B) Allows the Department and a Maka'i O Ke Kai program to partner with local communities to train volunteers on marine resource management, education, and enforcement;
 - (C) Provides guidelines and criteria for communities interested in establishing a Maka'i O Ke Kai project; and
 - (D) Establishes a Community-Based Marine Resource Management Advisory Committee to advise the Department of Land and Natural Resources on matters relating to community-based near shore resource management and fisheries rules with members representing Maka'i O Ke Kai projects, Native Hawaiian fishing practitioners, recreational fishers, the National Oceanic and Atmospheric Administration, and a marine scientist.
- (2) Appropriates \$50,000 for the Community-Based Marine Resource Management Advisory Committee to carry out its responsibilities;



- (3) Appropriates \$250,000 for the Maka'i O Ke Kai program;
and
- (4) Makes technical, nonsubstantive amendments for the
purposes of clarity and style.

Your Committee recognizes the overwhelming testimony in support of and opposition to this measure, and particularly notes the concerns indicated in testimony about the recently enacted lay gill net fishing rules. Your Committee urges the Department of Land and Natural Resources to provide opportunities for community input and engagement in amending these rules, especially with respect to fishing prohibitions of fish populations that are thriving in certain areas, such as the menpachi.

Your Committee believes that this measure, as amended, fulfills its intent, which is to ensure that laws and rules relating to marine resources incorporate community input and cultural practices.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1848, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1848, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Water, Land,
Agriculture, and Hawaiian
Affairs,


RUSSELL S. KOKUBUN, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WAH

Bill / Resolution No.:* HB 1848 HD2	Committee Referral: WAH, WAM	Date: 21 3/1/07		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KOKUBUN, Russell S. (C)	X			
TOKUDA, Jill N. (VC)	X			
FUKUNAGA, Carol	X			
HEE, Clayton				X
SLOM, Sam	X			
TOTAL	4	0	0	X
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution:	Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	

*Only one measure per Record of Votes