

STAND. COM. REP. NO.

2423

Honolulu, Hawaii

FEB 15 2008

RE: S.B. No. 2884
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fourth State Legislature
Regular Session of 2008
State of Hawaii

Madam:

Your Committees on Water and Land and Judiciary and Labor, to which was referred S.B. No. 2884 entitled:

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

beg leave to report as follows:

The purpose of this measure is to ensure the health, safety, and welfare of the citizens of the State by creating a program for monitoring and enforcing the safety of Hawaii's rainwater retention and detention ponds to prevent drowning.

Your Committees received testimony in support of this measure from fifty-one individuals. Testimony in opposition was received from the Department of Health; The Chamber of Commerce of Hawaii; and Engineering Solutions, Inc. Comments were received from AIA Hawaii State Council and the Coalition of Hawaii Engineering & Architectural Professionals.

Hawaii has had rainwater retention and detention ponds for over a thousand years. The ancient Hawaiians were among the most skilled of civil engineers in their construction of water diversion and retention systems. Over a century of plantation agriculture has left a legacy of useful and attractive artificial pond features. Existing ponds of these types are periodically adjusted by the owner to suit agricultural practices. However, even the federal government does not intend to regulate these types of agricultural features, because farmers have a hard enough time economically to survive and regulatory inspection in remote access areas is difficult. Your Committees note from the



testimony that state-of-the-art resort and golf course design has relied heavily on artificial pond features that would become subject to regulation under this measure.

Your Committees find that Hawaii has the highest rate of drowning in the country. An average of thirty Hawaii residents, or 2.4 victims for every one hundred thousand people, drown each year in the State's oceans, lakes, dams and reservoirs, rainwater retention and detention ponds, flood waters, swimming pools, spas, and in private homes. The rate more than doubles when including visitor statistics, making it the nation's riskiest destination in terms of water safety.

Hawaii's keiki are the most vulnerable to drowning, which in this State and nine others, is the leading cause of death among children aged fourteen and younger. Among children under age five, drowning accidents in swimming pools are the leading cause of injury and death. Hawaii's older keiki are more vulnerable to drowning in the ocean, lakes, ponds, dams and reservoirs, rainwater catchments, as well as detention and retention ponds.

The intent of this measure is expressed in the testimony of Pam Ramsay, the grandmother of Charlotte "Sharkey" Schaefer, the five year-old girl who drowned at a Pearl City naval housing complex and after whom this measure is named: "Passing a law that regulates these systems [rainwater detention and retention ponds] and monitors them for safety is necessary to ensure the safety of Hawaii's citizens and to reduce the drowning rate."

Your Committees have amended this measure on the recommendation of the AIA Hawaii State Council by:

- (1) Clarifying the definition of "catchment area pond" to include natural and artificial ponds as determined to be of sufficient depth to be potentially hazardous. The AIA stated that natural ponds can be just as hazardous to unsupervised children;
- (2) Clarifying the definition of "detention pond" to exclude taro, lotus root, or other agricultural pond fields. The AIA stated that regulating agricultural ponds runs counter to promoting agriculture; and
- (3) Excluding golf courses from the requirement of posting warning signs of the danger of drowning and prohibiting



entry. The AIA stated that golf courses are designed to be storm water retention areas for resorts and housing developments, so that this measure would require the fencing off of these recreational areas.

Your Committees have also changed the effective date of the measure to July 1, 2050, to continue discussions on this matter, and made technical, nonsubstantive amendments.

As affirmed by the records of votes of the members of your Committees on Water and Land and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2884, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2884, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Judiciary and Labor,

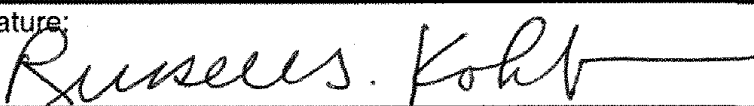

BRIAN T. TANIGUCHI, Chair


CLAYTON HEE, Chair



The Senate
Twenty-Fourth Legislature
State of Hawaii

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2884	WTL/JDL, WAM	2/11/08		
<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
HEE, Clayton (C)	/			
KOKUBUN, Russell S. (VC)	/			
FUKUNAGA, Carol				/
TOKUDA, Jill N.	/			
WHALEN, Paul				/
TOTAL	3			2
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	Goldenrod Committee File Copy	

*Only one measure per Record of Votes

