

Honolulu, Hawaii

FEB 14 2008

RE: S.B. No. 3227
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 Transportation and International Affairs
and Water and Land, to which was referred S.B. No. 3227 entitled:

"A BILL FOR AN ACT RELATING TO HARBORS,"

beg leave to report as follows:

The purpose of this measure is to:

- (1) Expand the authority of the Aloha Tower Development Corporation to assist in the development of the statewide harbors modernization plan, and authorize the Department of Transportation to issue revenue bonds to finance harbor improvements; and
- (2) Transfer the previously operational pier portion of Hana ramp and wharf to the Department of Transportation.

Testimony in support of this measure was received from the Department of Transportation (DOT), Aloha Tower Development Corporation (ATDC), Department of Land and Natural Resources (DLNR), Hawaii Harbor Users Group, The Chamber of Commerce of Hawaii, Hawaii Farm Bureau, Maui County Farm Bureau, and Retail Merchants of Hawaii. The Surfrider Foundation, Maui Chapter submitted testimony in opposition.

In addition, your Committees received a response from the Department of the Attorney General (AG) to questions regarding the transfer of the pier portion of Hana Harbor and the use of revenue bonds for Hana Harbor improvements. In this response, the AG



recommended that the provisions related to the transfer be clarified to permit the transfer from the DLNR to the DOT of Hana Harbor, excluding the small boat ramp facility. Your Committees have made this amendment as discussed in (1) below. The AG further notes that with these revisions and the passage of this Act the transfer of jurisdiction of the Hana Harbor, excluding the small boat ramp facility, from the DLNR to the DOT will allow the DOT to use harbor revenue bonds for capital improvement projects at the DOT controlled portion of the harbor.

Your Committees find that this measure expands on the partnership between ATDC and DOT authorized by Act 127, Session Laws of Hawaii 2007, to provide expedited implementation of approximately \$842,000,000 of critically needed DOT commercial harbor improvements within a six-year period.

While your Committees are supportive of the intent of this measure, concerns have been raised that must be addressed.

Senate Concurrent Resolution No. 54 (2008), requests the Auditor to conduct an audit of the Aloha Tower Development Corporation, including, but not be limited to, a study of three litigated cases against the Aloha Tower Development Corporation, and whether chapter 206J, Hawaii Revised Statutes, relating to the Aloha Tower Development Corporation, should be repealed or amended. This Concurrent Resolution was only recently introduced, and members require time to review it and its implications.

Your Committees must also consider the "home rule" questions that this measure raises, given that thirteen of the fifteen site specific harbor improvements are on neighbor islands.

Your Committees believe it is important to keep both this measure and legislative discussions moving forward. To this end, your Committees have amended this measure to incorporate the recommendations of the AG and to allow for continuing review of the issues by the Legislature, by:

- (1) Correcting ambiguities in the language related to the transfer of portions of Hana Harbor, to state that the DOT shall have jurisdiction and administrative authority over Hana Harbor, excluding its small boat ramp facility, which shall remain under the jurisdiction and administrative authority of DLNR;

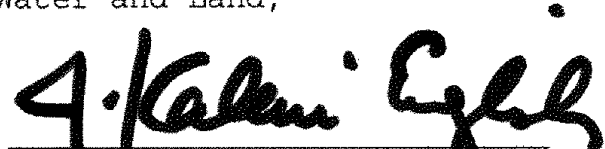


- (2) Adding new sections related to the transfer of jurisdiction, functions, powers, duties, and authority between DLNR and DOT; executive orders, revocable permits, easements, and rights of entry; conformity of Acts; and liberal construction;
- (3) Changing the effective date from upon approval to July 1, 2030, for purposes of further discussion; and
- (4) Making a technical amendment to correct a typographical error.

As affirmed by the records of votes of the members of your Committees on Transportation and International Affairs and Water and Land that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3227, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3227, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Transportation
and International Affairs and
Water and Land,


CLAYTON HEE, Chair


J. KALANI ENGLISH, Chair



