

STAND. COM. REP. NO.

887

Honolulu, Hawaii

March 6, 2009

RE: H.B. No. 1163
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Sir:

Your Committee on Finance, to which was referred H.B. No. 1163, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO HARBORS,"

begs leave to report as follows:

The purpose of this bill is to hold commercial harbor users responsible by authorizing the Director of Transportation (Director) to adopt rules to require private persons engaged in commercial activities at the State's commercial harbors to defend, indemnify, and hold harmless the State against all claims that arise from such use.

The Department of Transportation supported this bill with amendments. The Hawaii Harbors Users Group provided comments on this measure.

Your Committee has amended this bill by:

- (1) Broadening the scope of the measure to include any person who uses or occupies State harbor property and not just commercial users or businesses;
- (2) Further allowing the Director to condition the use or occupation of State harbor property on the waiver of any statutory or other immunity from liability that may be asserted in any way to limit a person's obligation to

HB1163 HD2 HSCR FIN HMS 2009-2570

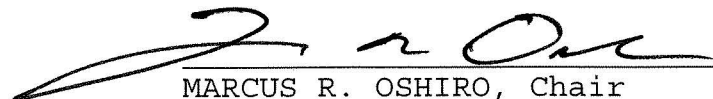


defend, indemnify, and hold harmless the State, and any of its agencies, officers, and employees;

- (3) Specifying that nothing in this law shall be construed to prevent the State from being held liable for any damages, costs, and expenses to the extent caused by the State's negligence or other fault, breach of contract, or failure to comply with statutory or other legal duty relating to State harbor property and paying for such damages, costs, and expenses provided there is an appropriation therefor;
- (4) Inserting a savings clause; and
- (5) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Finance that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1163, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1163, H.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Finance,


MARCUS R. OSHIRO, Chair



