

STAND. COM. REP. NO.

1054

Honolulu, Hawaii

MAR 27 2009

RE: H.B. No. 1174
H.D. 3
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2009
State of Hawaii

Madam:

Your Committees on Higher Education and Water, Land, Agriculture, and Hawaiian Affairs, to which was referred H.B. No. 1174, H.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO THE UNIVERSITY OF HAWAII,"

beg leave to report as follows:

The purpose of this measure is to:

- (1) Establish the Mauna Kea management special fund; authorize the Board of Regents of the University of Hawaii to establish rents, fees, and charges for deposit into the fund; and establish uses of the moneys in the fund;
- (2) Authorize the Board of Regents to adopt administrative rules to regulate public and commercial activities at and within the Mauna Kea lands, or the lands the University leases from the Board of Land and Natural Resources;
- (3) Require the Board of Regents to establish procedures to enforce these rules; and
- (4) Establish administrative fines for violations of these rules and authorize the Board to assess and collect administrative fines.



Testimony in support of this measure was submitted by the University of Hawaii System; Department of Land and Natural Resources; Office of Hawaiian Affairs; Big Island Land Company; Hawaii Building and Construction Trades Council; Hawaii Island Chamber of Commerce; Ginoza Realty, Inc.; Engineering Partners, Inc.; Pacific Resource Partnership; Laborers International Union of North America, Local 368; Hawaii Island Economic Development Board; Japanese Chamber of Commerce & Industry of Hawaii; T & T Electric, Inc.; Kaiulani 4, LLC; Hawaii Science & Technology Council; International Longshore and Warehouse Union, Local 42; Hawaiian Mamaki Tea Plantation, Inc.; International Brotherhood of Electrical Workers, Local 1186; HPM Building Supply; Ku'iwalu; Hamakua Springs Country Farm; Hawaii Teamsters and Allied Workers, Local 996; and fifty-two individuals. KAHEA, the Hawaiian-Environmental Alliance; Life of the Land; and one hundred thirty-five individuals submitted testimony in opposition. Written testimony presented to the Committees may be reviewed on the Legislature's website.

Your Committees find that the issues surrounding the Mauna Kea lands are complex and varied, ranging from native Hawaiian rights and the use of ceded lands; the economic benefits of Mauna Kea lands activities; jurisdictional responsibilities; financial management; land and natural resource management; infrastructure requirements; and the balance of short-term needs and long-range planning.

Your Committees further find that there have been extensive efforts to address these issues, including the 1995 Revised Management Plan, adopted by the Board of Land and Natural Resources, for the University of Hawaii Management Areas on Mauna Kea, which assigns management and enforcement responsibilities of public and commercial use and institutes commercial use and management controls; the University of Hawai'i Mauna Kea Science Reserve Master Plan 2000 Master Plan, adopted by the Board of Regents as the policy framework for the responsible stewardship and use of university-managed lands on Mauna Kea; and the Comprehensive Management Plan for Mauna Kea, which is currently in public review.

Your Committees fully understand that there will not be agreement by all the parties. As with any complex issue, compromise is not always possible. Your Committees commend those involved with developing the Comprehensive Management Plan for



Mauna Kea for their good faith efforts to hear - if not resolve - problems and concerns. It is the hope of the Committees that all efforts to engage and address the concerns of stakeholders will continue.

After due consideration of this measure, your Committees have replaced the contents of this measure with S.B. No. 502, S.D. 1, previously heard and approved by your Committees. While both measures include many of the same concepts, your Committees find the Senate measure proposes a more comprehensive approach.

As amended, this measure:

- (1) Authorizes the Board of Regents to charge fees and enter into lease agreements for the Mauna Kea lands;
- (2) Authorizes the Board to adopt rules to regulate public and commercial activities on Mauna Kea lands;
- (3) Authorizes the Board, in consultation with the Office of Hawaiian Affairs, to establish and collect administrative fines for violations;
- (4) Requires annual reports to the Legislature;
- (5) Establishes a Mauna Kea Lands Management Special Fund for the University of Hawaii to manage Mauna Kea Lands; and
- (6) Has an effective date of July 1, 2025, for the purposes of further discussion.

In addition, your Committees strongly urge the University of Hawaii and the Board of Regents to consult with the plaintiffs of Civil No. 04-1-397, Mauna Kea Anaina Hou, et al v. Board of Land and Natural Resources, et al: Mauna Kea Ainana Hou; Royal Order of Kamehameha I; Sierra Club, Hawaii Chapter; and Clarence Ching. In many ways, this case illustrates the issues and concerns that continue to confront all parties involved with the future of the Mauna Kea lands, and it provides a sobering example that your Committees hope would not be repeated.

As affirmed by the records of votes of the members of your Committees on Higher Education and Water, Land, Agriculture, and Hawaiian Affairs that are attached to this report, your Committees

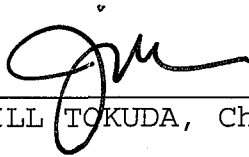


are in accord with the intent and purpose of H.B. No. 1174, H.D. 3, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1174, H.D. 3, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Higher Education and Water, Land, Agriculture, and Hawaiian Affairs,



CLAYTON HEE, Chair

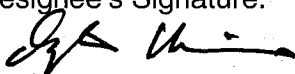


JILL TOKUDA, Chair



The Senate
Twenty-Fifth Legislature
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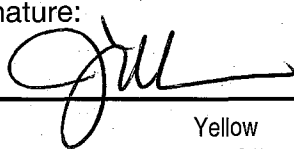
Record of Votes
Committee on Higher Education
HRE

Bill / Resolution No.:* HB 1174, HD 3	Committee Referral: HRE/WTL, WAM	Date: 3/24/09		
<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
TOKUDA, Jill N. (C)	✓			
SAKAMOTO, Norman (VC)				✓
BAKER, Rosalyn H.				✓
KOKUBUN, Russell S.	✓			
TAKAMINE, Dwight Y.	✓			
TANIGUCHI, Brian T.				✓
SLOM, Sam			✓	
TOTAL	3	0	1	3
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Twenty-Fifth Legislature
State of Hawaii

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

Bill / Resolution No.:* HB 1174, HD3	Committee Referral: HRE/WTL, WAM	Date: 7/27/09		
<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)	✓	✓		
TOKUDA, Jill N. (VC)	✓			
BUNDA, Robert				✓
FUKUNAGA, Carol	✓			
KOKUBUN, Russell S.	✓			
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred				✓
TOTAL	4	1		2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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