

STAND. COM. REP. NO.

98

Honolulu, Hawaii

FEB 18 2009

RE: S.B. No. 1141
S.D. 1

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

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 1141 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LANDS,"

begs leave to report as follows:

The purpose of this measure is to require the Department of Land and Natural Resources to offer for sale to leaseholders parcels of Sand Island.

Testimony in support of this measure was submitted by one organization. Two state agencies submitted comments. Testimony in opposition was submitted by one state agency. Copies of written testimony are available for review on the Legislature's website.

Your Committee finds that the Department of Land and Natural Resources entered into a fifty-five year lease with the Sand Island Business Association which covers approximately seventy-four acres and was divided into one hundred and twelve lots known as the Sand Island Industrial Park. The lease required the Sand Island Business Association to develop the infrastructure improvements, sublease the lots to existing lessees, and manage the Sand Island Industrial Park on behalf of the Department of Land and Natural Resources. In 1999, the Sand Island Business Association completed the infrastructure improvements at a cost of more than forty-one million dollars. The members of the Sand Island Business Association have invested more than twenty million dollars in leasehold improvements to the individual lots.

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Recently, members of the Sand Island Business Association have expressed a strong interest in purchasing the fee interest of their leasehold lots to secure their substantial investment in the Sand Island Industrial Park. Additionally, as the lease period shortens, it becomes more difficult to rely upon the leasehold as an asset when attempting to secure bank loans for improvements.

According to the Department of Land and Natural Resources, Sand Island is not ceded land. According to the *Final Report on the Public Land Trust*, published by the Office of the Legislative Auditor in 1986, Sand Island was essentially built by filling the reefs within the Mokauea and Kaholoa fishing grounds. In 1959 many parties were vying for control of Sand Island, and on August 20, one day before statehood, title to the two hundred and two acres of Sand Island was transferred to the Territory by Presidential Executive Order No. 10833. Since the Presidential Executive Order returning the two hundred and two acres to Hawaii was signed before Hawaii became a state, the acreage is listed in the state inventory as having been received by Hawaii under section 5(a) of the Admission Act. As section 5(a) land, the two hundred and two acre site is not subject to the section 5(f) trust or to chapter 10, Hawaii Revised Statutes.

Your Committee understands that the Department of Land and Natural Resources relies upon the lease revenue from the Sand Island Industrial Park to support operations and management of public lands programs. Your Committee further understands that the lease revenue constitutes nearly one half of all lease revenues supporting the Special Land and Development Fund.

Your Committee has amended this measure by:

- (1) Requesting that an exchange of lands be considered to prevent the Department of Land and Natural Resources from losing the revenue stream required for operations;
- (2) Requiring that any offer of sale or exchange be made within one year of the effective date of the measure;
- (3) Requiring that any agreement of sale be subject to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by majority vote of both in any regular or special session



following the date of the Board of Land and Natural Resources' approval in principle of the sale; and

- (4) Making technical, nonsubstantive changes for consistency.

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 S.B. No. 1141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1141, S.D. 1, and be referred to the Committee on Ways and Means.

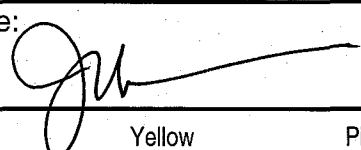
Respectfully submitted on behalf of the members of the Committee on Water, Land, Agriculture, and Hawaiian Affairs,



CLAYTON HEE, Chair

The Senate
 Twenty-Fifth Legislature
 State of Hawaii

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

Bill / Resolution No.:* SB 1141	Committee Referral: WTL, WAM	Date: 2/13/09		
<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	1	1
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