

STAND. COM. REP. NO. 1622

Honolulu, Hawaii

April 19, 2009

RE: S.B. No. 1
S.D. 1
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 Judiciary, to which was referred S.B. No. 1, S.D. 1, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OPIHI,"

begs leave to report as follows:

The purpose of this bill is to protect and increase the natural populations of Hawaiian opihi species by:

- (1) Establishing a five-year moratorium on the harvesting of opihi on Oahu;
- (2) Establishing a ban on taking or harvesting opihi statewide, subject to open and closed seasons and the traditional rights of ahupua'a tenants; and
- (3) Requiring the Department of Land and Natural Resources (DLNR) to submit an annual report to the Legislature on the effectiveness and enforcement of the statewide seasonal ban.

The Nature Conservancy, Sierra Club, Hawaii Chapter, Kawaihapai Ohana, and concerned individual supported this bill. DLNR opposed this bill.

Your Committee has amended this bill by:

SB1 HD2 HSCR JUD HMS 2009-3703



- (1) Clarifying language establishing the statewide open and closed seasons for taking, harvesting, or possessing opihi from above the waterline for sale or consumption;
- (2) Specifying that the required reports that are to be submitted by the Division of Aquatic Resources of DLNR, shall be for a period of three years, commencing with the regular session of 2011 and ending with the regular session of 2013;
- (3) Deleting language protecting the rights customarily and traditionally exercised for subsistence, cultural, and religious purposes and possessed by "ahupua'a tenants" and replacing it with language referencing native Hawaiian gathering rights that are protected by the Hawaii State Constitution; and
- (4) Making technical, nonsubstantive amendments for clarity, consistency, and style.

Your Committee had concerns with the term "nearshore waters," which is used several times in the new statutory language proposed by this measure, as this term is without further definition or reference to any other statutory definition. However, based on confirmation with DLNR, your Committee is satisfied that the term "nearshore waters" is intended to include all state waters up to three nautical miles offshore of any land in the state.

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

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



JON RIKI KARAMATSU, Chair



