

Honolulu, Hawaii

March 12, 2010

RE: S.B. No. 2409  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2010  
State of Hawaii

Sir:

Your Committee on Economic Revitalization, Business, & Military Affairs, to which was referred S.B. No. 2409 entitled:

"A BILL FOR AN ACT RELATING TO MARINE LIFE CONSERVATION DISTRICTS,"

begs leave to report as follows:

The purpose of this bill is to reduce hardships on holders of Marine Life Conservation District (MLCD) permits caused by changes in permit conditions by requiring these types of changes to be adopted pursuant to Chapter 91, Hawaii Revised Statutes (Chapter 91), rulemaking procedures.

Frogman Charters, Ocean Tourism Coalition, and Maui Classic Charters supported this bill. The Department of Land and Natural Resources (DLNR) and Fair Wind Cruises opposed this bill. The Nature Conservancy of Hawaii submitted comments.

In response to damage caused to the reef near Molokini Island by a commercial boat operator, DLNR imposed new conditions for permits to moor in the area. Due to a breakdown in communications, some companies were not given timely notice of some of the new conditions. The result is the present bill.

Your Committee finds that sufficient notice of proposed changes in permit conditions would allow commercial boat owners to discuss the new conditions with DLNR, prepare for compliance, and avoid unnecessary costs. While providing this notice, rulemaking



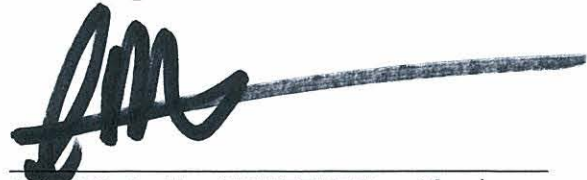
procedures would also require a year or longer for any change in permit conditions, a delay that DLNR testified would be devastating to its ability to manage the MLCDs. DLNR also testified that in some cases permit conditions must be altered promptly without much notice, providing as an example, changes necessary for State risk management to avoid liability for injuries to persons or property due to litigation.

Upon reflection, your Committee has amended this bill by striking the reference to Chapter 91 rulemaking and requiring that DLNR, if at all possible, shall provide 90 days written notice of any change in MLCD permit conditions.

Your Committee respectfully requests the Committee on Water, Land, and Ocean Resources, to which this bill is next referred, to consider whether there are alternatives to the phrase "if at all possible," that would provide clearer standards for DLNR to follow, while providing necessary exceptions to the 90-day notice requirement.

As affirmed by the record of votes of the members of your Committee on Economic Revitalization, Business, & Military Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2409, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2409, H.D. 1, and be referred to the Committee on Water, Land, & Ocean Resources.

Respectfully submitted on  
behalf of the members of the  
Committee on Economic  
Revitalization, Business, &  
Military Affairs,



ANGUS L.K. MCKELVEY, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

HSCR 721-10

**Record of Votes of the Committee on Economic Revitalization, Business, & Military Affairs**

Bill/Resolution No.: <b>SB 2409</b>	Committee Referral: <b>EBM</b>	Date: <b>3/29/10</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
EBM Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. CHOY, Isaac W. (VC)	✓			
3. BERG, Lyla B.	✓			
4. EVANS, Cindy	✓			
5. MANAHAN, Joey	✓			
6. TAKAI, K. Mark				✓
7. TOKIOKA, James Kunane	✓			
8. TSUJI, Clift	✓			
9. WAKAI, Glenn				✓
10. WOOLEY, Jessica				✓
11. WARD, Gene	✓			
TOTAL (11)	8	-	-	3
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <span style="margin-left: 150px;">committee acronym(s)</span>				
Vice Chair's or designee's signature:				
Distribution: Original (White) – Committee    Duplicate (Yellow) – Chief Clerk's Office    Duplicate (Pink) – HMSO				