

STAND. COM. REP. NO.

2515

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2460
S.D. 1

Honorable Colleen Hanabusa
President of the Senate
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Madam:

Your Committees on Water, Land, Agriculture, and Hawaiian Affairs and Economic Development and Technology and Ways and Means, to which was referred S.B. No. 2460 entitled:

"A BILL FOR AN ACT RELATING TO THE KAHO'OLAWA REHABILITATION TRUST FUND,"

beg leave to report as follows:

The purpose of this measure is to impose a user fee on permit holders who operate commercial activities in the Molokini Shoal Marine Conservation District (Molokini) to be deposited in the Kaho'olawe Rehabilitation Trust Fund.

Testimony in support of the measure was submitted by one state agency and one state commission. Testimony in opposition was submitted by one state agency, ten organizations, and two individuals. Written testimony presented to the Committees may be reviewed on the Legislature's website.

Your Committees recognize the concerns of the commercial operators who may be affected by this measure. Each commercial operator pays a permit fee of \$50 every two years to bring commercial tours to Molokini, and for the use of the harbor, three per cent of the gross receipts. The Department of Land and Natural Resources recently imposed additional permit conditions on the commercial operators which may require increased costs for some operators, however, how many operators these conditions have affected and the extent of the financial impact is unknown to the Department.

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Molokini is an attractive destination for these commercial operators for snorkel and dive tours because of its pristine condition and large fish stocks. This is due in large part to the preservation and protection activities at Kaho'olawe. The restricted waters provide an extensive sanctuary and nursery for all marine species, including the green sea turtle, Hawaiian monk seal, humpback whales, and some of the healthiest fish populations in the islands. The Kaho'olawe Island Reserve Commission supports Molokini by removing unexploded ordnance and monitoring seabirds. Additionally, the Kaho'olawe Island Reserve Commission provides assistance to boaters in and around Molokini when needed, since due to the close proximity, a Commission vessel is often the closest vessel. Thus, there is a close nexus between Molokini and Kaho'olawe.

The overarching purpose of this measure is to provide a permanent statutory revenue source for the management of the Kaho'olawe Island Reserve. It is estimated that approximately 350,000 visitors visit Molokini each year, therefore this measure could generate as much as \$1.75 million annually. The Department of Land and Natural Resources informed your Committees that the moorings at Molokini require \$60,000 in deferred maintenance. Thus, the potential revenues from this user fee could pay for the annual management of Molokini and for required maintenance activities while still providing funds to assist the Kaho'olawe Island Reserve Commission in its mission to preserve and protect the Island Reserve.

Your Committees find that transferring authority for Molokini from the Department of Land and Natural Resources to the Kaho'olawe Island Reserve Commission provides the benefits from the user fee and the responsibilities for Molokini. Your Committees appreciate the support of the Office of Hawaiian Affairs during these difficult economic times in the effort to find fair and necessary sources of income to support struggling state programs. Your Committees acknowledge and respect the Office of Hawaiian Affairs' trust responsibilities and recognize the possible conflict with the required matching funds in this measure. For this reason, your Committees have amended the measure to include a severability provision.



Your Committees hope to work collaboratively with the Department of Land and Natural Resources and the Kaho'olawe Island Reserve Commission and continue the discussion of these matters.

Your Committees have amended this measure by:


- (1) Transferring authority for Molokini from the Department of Land and Natural Resources to the Kaho'olawe Island Reserve Commission;
- (2) Authorizing the Kaho'olawe Island Reserve Commission to issue commercial use permits and collect permit fees and a percentage of gross receipts for the use of Molokini;
- (3) Removing the specific amount of the user fee to be imposed on permit holders who operate a commercial activity in Molokini;
- (4) Requiring the Office of Hawaiian Affairs to provide no less than matching funds to the Kaho'olawe Island Reserve Commission for any fees and gross receipts collected for the use of Molokini;
- (5) Amending the definition of "island reserve" to include Molokini and its waters;
- (6) Authorizing the Kaho'olawe Island Reserve Commission to engage in commercial activities;
- (7) Establishing a Molokini sub-account in the Kaho'olawe Rehabilitation Trust Fund:
 - (A) For deposit of all fees and revenues collected for the use of Molokini;
 - (B) For use for the management and maintenance of Molokini; and
 - (C) To provide additional funds for the Trust Fund if there are funds in excess of the annual expenditures required to manage and maintain Molokini;



- (8) Authorizing the Kaho'olawe Rehabilitation Trust Fund to accept any moneys received from the Office of Hawaiian Affairs and any excess funds from the Molokini sub-account;
- (9) Adding a severability provision;
- (10) Changing the effective date to July 1, 2050 to encourage further discussion; and
- (11) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water, Land, Agriculture, and Hawaiian Affairs and Economic Development and Technology and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2460, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2460, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on behalf of the members of the Committees on Water, Land, Agriculture, and Hawaiian Affairs and Economic Development and Technology and Ways and Means,


CAROL FUKUNAGA, Chair



CLAYTON HEE, Chair


DONNA MERCADO KIM, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* SB 2460	Committee Referral: WTL/EDT/WAM	Date: 2/24/10		
<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
FUKUNAGA, Carol (C)	✓			
BAKER, Rosalyn H. (VC)				✓
HEE, Clayton	✓			
IGE, David Y.				✓
SLOM, Sam			✓	
TOTAL	2		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				

*Only one measure per Record of Votes

