

Honolulu, Hawaii

FEB 26 2010

RE: S.B. No. 2547
S.D. 1

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

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 2547 entitled:

"A BILL FOR AN ACT RELATING TO SMALL BOAT HARBORS,"

begs leave to report as follows:

The purpose of this measure is to require small boat harbor commercial vessel permittees who, in the course of providing an excursion between state boating facilities, disembark fare-paying passengers with the expectation that they will enter upon any public or quasi-public real property during the course of their excursion, to comply with all of the rules and regulations applicable to these areas.

Testimony in support of this measure was submitted by two organizations and fourteen individuals. One state agency submitted testimony in opposition. Written testimony presented to the Committee may be reviewed on the Legislature's website.

This measure is intended to address situations such as the overcrowding at Hulopoe Beach Park on Lanai, which is a parcel of land dedicated in perpetuity by Castle & Cook Resorts, LLC for park and recreational purposes. Hulopoe Beach Park has rules and regulations prohibiting the commercial use of the park without a permit. However, in recent years, Maui-based tour boat operators without permits have been bringing customers to Lanai and encouraging them to use the park and its amenities. Hulopoe Beach Park is Lanai's only publicly-accessible, facility-friendly beach, and is designated as a Marine Life Conservation District.



Residents of Lanai feel the park is overcrowded, its amenities abused by commercial tour customers, and the park rules ignored by commercial tour operators.

Your Committee understands the residents' frustrations, but believes that the Beach Park rules should be enforced by the property owner. The Hulopoe Beach Park is not a publicly owned parcel, and thus not subject to the enforcement purview of the Department of Land and Natural Resources. To expand the purview of the Department of Land and Natural Resources enforcement authority to include quasi-public land would vastly increase the Department's responsibilities. Your Committee recognizes that recent court decisions may limit Castle & Cook Resorts' ability to exclude members of the public from using the Beach Park. However, your Committee hopes that Castle & Cook Resorts will continue to use its best efforts to find a solution in consultation with commercial tour boat operators.

Your Committee has amended this measure by changing the effective date to July 1, 2050 for the purpose of facilitating further discussion.

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. 2547, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2547, S.D. 1, and be placed on the calendar for Third Reading.

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



CLAYTON HEE, Chair



