

STAND. COM. REP. NO.

2172

Honolulu, Hawaii

FEB 10 2010

RE: S.B. No. 2951
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. 2951 entitled:

"A BILL FOR AN ACT RELATING TO AGRICULTURE,"

begs leave to report as follows:

The purpose of this measure is to provide fair compensation when leased public land for agricultural or pastoral uses is withdrawn, condemned, or taken for public purposes.

Testimony in support of the measure was submitted by three organizations and one individual. One organization submitted comments. Testimony in opposition was submitted by two state agencies and one organization. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Cattle ranchers on the Big Island suffered serious financial losses as a result of the Saddle Road widening project. The Department of Land and Natural Resources established a conservation easement on leased land effectively preventing the ranchers from being able to use the leased land for their cattle herds, which required them to reduce their herds at a significant loss. This jeopardized the lessee's entire business model, because the ranchers were unable to mitigate long-term, fixed costs associated with operating a ranch in the way anticipated when the lease was negotiated.

Chapter 171, Hawaii Revised Statutes, presently provides for rent reductions if the land withdrawn causes the land to become

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unusable for the specific use or uses for which it was originally leased. However, the law provides no other method of compensation. The ranchers are required to maintain insurance and pay taxes for land they cannot use for the specific purpose for which it was originally leased. The Department of Land and Natural Resources posits that rent reduction is sufficiently fair, and that easements do not prevent the lessee from making any beneficial use of the land even when it prevents them using the land for its original intended purpose. Your Committee believes that rent reduction is insufficient, especially where the lessor fails to recognize that the law is designed to take into account the lessee's original intended purpose for leasing the land.

Your Committee finds that this measure provides fair compensation when easements render the land unusable for the lessee's original intended purpose yet requires them to maintain insurance and pay taxes for land that no longer supports their existing businesses.

Your Committee has amended this measure by changing the effective date to July 1, 2050 for the purposes of 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. 2951, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2951, 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



