

STAND. COM. REP. NO. 1288

Honolulu, Hawaii

March 27, 2009

RE: S.B. No. 701  
S.D. 2  
H.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Sir:

Your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources, to which was referred S.B. No. 701, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO LANDFILLS,"

beg leave to report as follows:

The purpose of this measure is to prohibit the construction of new solid waste landfills or the expansion of any existing private solid waste landfill unit on the Leeward Coast from Kaena Point to Waimanalo Gulch on or after August 1, 2009.

Testimony in support of this measure was submitted by the Iron Workers Stabilization Fund. Testimony in opposition was submitted by the Kailua Neighborhood Board, Waltz Engineering, Inc., Koga Engineering and Construction, Inc., Dorvin D. Leis Company, Inc., and S&M Sakamoto, Inc.

Your Committees have amended this measure by replacing its contents with those contained in proposed S.B. No. 701, H.D. 1, which was circulated prior to the hearing. As amended the measure:

- (1) Deletes the language prohibiting the construction or expansion of solid waste landfills on the "leeward coast of Oahu from Kaena Point to Waimanalo gulch" and replaces that language with a prohibition on the



construction or expansion of landfills in the Ewa, Waianae, Waialua, Koolauloa, and Koolaupoko districts;

- (2) Specifies that the measure is not intended to apply to the expansion of a municipal solid waste landfill in these districts, including the Waimanalo Gulch Sanitary Landfill; and
- (3) Specifies that the term "new solid waste landfill" does not include the Waimanalo Gulch Sanitary Landfill.

Testimony in support of the intent of the proposed S.B. No. 701, H.D. 1, was submitted by one concerned individual. Testimony in opposition was submitted by the Department of Health, City and County of Honolulu Department of Environmental Sciences, Windward Ahupua'a Alliance, and PVT Land Company.

Your Committees have further amended the measure to clarify the language.

Your Committees find that that the overarching intent of this measure is to limit the construction of any new or expansion of existing solid waste landfills. Your Committees further find that continuing the present landfill based approach to solid waste management is not sustainable. A paradigm shift is needed in waste management practices throughout the State. Your Committees acknowledge that there are very strong opinions on both sides of this issue and find that further discussion of this measure during the legislative session is needed to move toward a sustainable approach to solid waste disposal.

Further, your Committees note their concern over the specific exemption of the Waimanalo Gulch Sanitary Landfill from the prohibition in S.B. No. 701, H.D. 1. Your Committees are unclear whether Waimanalo Gulch Sanitary Landfill is the only landfill that falls within the exception for expanding existing municipal solid waste landfills. Thus, it is unclear whether this exemption creates a "class of one" that may make this measure inconsistent with article XI, section 5 of the Hawaii state constitution, which limits the exercise of legislative power over state lands to the enactment of general laws. Your Committees urge the Committee on Judiciary to consider and address this issue.

As affirmed by the records of votes of the members of your Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources that are attached to this report, your Committees



are in accord with the intent and purpose of S.B. No. 701, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 701, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Respectfully submitted on behalf of the members of the Committees on Energy & Environmental Protection and Water, Land, & Ocean Resources,



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KEN ITO, Chair



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HERMINA MORITA, Chair



State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

**Record of Votes of the Committee on Energy & Environmental Protection**

<b>Bill/Resolution No.:</b> SB 701, SD2	<b>Committee Referral:</b> EEP/WLO, JWD	<b>Date:</b> 3-24-09		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
<b>The recommendation is to:</b> <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)				
<b>EEP Members</b>	<b>Ayes</b>	<b>Ayes (WR)</b>	<b>Nays</b>	<b>Excused</b>
1. MORITA, Hermina M. (C)	✓			
2. COFFMAN, Denny (VC)	✓			
3. CABANILLA, Rida	✓			
4. CHANG, Jerry L.	✓			
5. CHONG, Pono	✓			
6. HAR, Sharon E.	✓			
7. HERKES, Robert N.	✓			
8. ITO, Ken	✓			
9. LEE, Chris	✓			
10. LUKE, Sylvia	✓			
11. SAGUM, Roland D., III	✓			
12. CHING, Corinne W.L.		✓		
13. THIELEN, Cynthia		✓		
<b>TOTAL (13)</b>	<b>11</b>	<b>2</b>	<b>0</b>	<b>0</b>
<b>The recommendation is:</b> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
<b>Vice Chair's or designee's signature:</b> <u>Denny Coffman</u>				
<b>Distribution:</b> Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				

State of Hawaii  
House of Representatives  
The Twenty-fifth Legislature

Record of Votes of the Committee on Water, Land, & Ocean Resources

<b>Bill/Resolution No.:</b> SB 701, SD2	<b>Committee Referral:</b> EEP/WLO, JUD	<b>Date:</b> 3/24/09
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The committee is reconsidering its previous decision on the measure.

**The recommendation is to:**     Pass, unamended (as is)     Pass, with amendments (HD)     Hold  
 Pass short form bill with HD to recommit for future public hearing (recommit)

WLO Members	Ayes	Ayes (WR)	Nays	Excused
1. ITO, Ken (C)	✓			
2. HAR, Sharon E. (VC)	✓			
3. CABANILLA, Rida	✓			
4. CHANG, Jerry L.	✓			
5. CHONG, Pono	✓			
6. COFFMAN, Denny	✓			
7. HERKES, Robert N.	✓			
8. LEE, Chris	✓			
9. LUKE, Sylvia	✓			
10. MORITA, Hermina M.	✓			
11. SAGUM, Roland D., III	✓			
12. CHING, Corinne W.L.		✓		
13. THIELEN, Cynthia		✓		
<b>TOTAL (13)</b>	<b>11</b>	<b>2</b>		

**The recommendation is:**     Adopted     Not Adopted  
If joint referral, \_\_\_\_\_ did not support recommendation.  
\_\_\_\_\_ committee acronym(s)

**Vice Chair's or designee's signature:** \_\_\_\_\_

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