

STAND. COM. REP. NO.

3064

Honolulu, Hawaii

APR - 6 2010

RE: S.C.R. No. 228

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.C.R. No. 228 entitled:

"SENATE CONCURRENT RESOLUTION SUBMITTING TO THE LEGISLATURE OF THE STATE OF HAWAII FOR REVIEW OF ACTION TAKEN BY THE BOARD OF LAND AND NATURAL RESOURCES ON A LAND EXCHANGE,"

begs leave to report as follows:

The purpose of this measure is to approve the conveyance of tax map key (1) 5-9-05:77 to the Aloha Council Boy Scouts of America to correct the inadvertent omission of the parcel from the 2004 recorded conveyance documents.

Testimony in support of the measure was submitted by one state agency and four individuals. Written testimony presented to the Committee may be reviewed on the Legislature's website.

Your Committee notes that this measure demonstrates a misunderstanding of the law regarding land exchanges and the effect of Act 176, Session Laws of Hawaii 2009 (Act 176). Your Committee has adopted the measure to correct the misunderstanding and clarify your Committee's position with regard to these types of measures.

Act 176 established a mechanism for the permanent disposition through sale or gift of land from the public lands corpus and requires legislative approval for any such transfer. Additionally, Act 176 recognized the Office of Hawaiian Affairs' (OHA) particular interest in maintaining the public land trust and

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requires that OHA be notified of any sale, gift, or exchange of public lands. The subject measure addresses an exchange of public lands, which occurred in 2004, but due to the parties' mistake, one parcel was inadvertently omitted. An exchange of public land is subject to section 171-50, Hawaii Revised Statutes, which requires legislative disapproval. The parties are required to introduce a concurrent resolution for legislative disapproval with specific information. If the concurrent resolution is not adopted by the Legislature, the land exchange may occur. This process took place in 2003, as required by law. Act 176 amended section 171-50, Hawaii Revised Statutes, to require that a copy of the concurrent resolution for legislative disapproval be submitted to OHA. Act 176 did not change the law regarding land exchanges in any other way. In 2003, the parties to the subject transaction took an additional step of requesting legislative approval of the land transfer in a bill, which was adopted as Act 27, Session Laws of Hawaii 2003. Thus, not only was the land transfer not disapproved by the Legislature but it was also affirmatively approved in a session law.

The measure submitted to your Committee for consideration states, "the parties wish to comply with Act 176 . . . out of an abundance of caution." Your Committee is concerned that this measure is unnecessary as this land transfer has clearly met the required statutory obligations. Your Committee is also concerned as the measure requests legislative approval in reference to section 171-50, Hawaii Revised Statutes. As explained previously, section 171-50, Hawaii Revised Statutes, requires legislative disapproval.

Your Committee finds that correcting the mistake of 2004 is a ministerial matter and can be dealt with on another level. Your Committee hopes the parties will resolve this matter without pursuing this measure further.

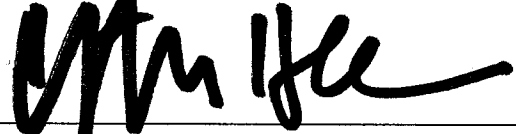
Your Committee has amended this measure by making technical, nonsubstantive changes for the purpose of clarity.

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 concurs with the intent and purpose of S.C.R. No. 228, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 228, S.D. 1.



3064

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

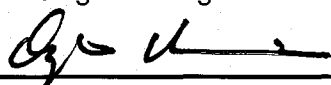


CLAYTON HEE, Chair



The Senate
Twenty-Fifth Legislature
State of Hawaii

Record of Votes
Committee on Water, Land, Agriculture and Hawaiian Affairs
WTL

Bill / Resolution No.:*	Committee Referral:	Date:		
SCR 228	WTL	3/22/10		
<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
HEE, Clayton (C)	✓			
TOKUDA, Jill N. (VC)				✓
BUNDA, Robert	✓			
FUKUNAGA, Carol	✓			
KOKUBUN, Russell S.				✓
TAKAMINE, Dwight Y.	✓			
HEMMINGS, Fred				✓
TOTAL	4	0	0	3
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