

Honolulu, Hawaii

March 23, 2012

RE: S.B. No. 2876
S.D. 2
H.D. 2

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 2876, S.D. 2, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE COMMERCIAL HARBORS,"

begs leave to report as follows:

The purpose of this measure is to assist the Department of Transportation's Harbors Division in addressing the management and operations of its commercial harbor facilities by, among other things:

- (1) Establishing an administrative hearing process for non-criminal violations issued by enforcement officers or harbor agents;
- (2) Stipulating that fines and penalties for non-criminal matters are to be deposited into the Harbor Special Fund;
- (3) Removing jurisdictional references to recreational properties, properties used for the landing of fish, and Kewalo Basin as Kewalo Basin is currently under the jurisdiction of the Hawaii Community Development Authority;



- (4) Clarifying that citations and violations for traffic code and other criminal statutes shall be issued by law enforcement officers conferred with police powers by the Director of Transportation;
- (5) Allowing the courts or administrative hearings officer to deprive an individual violating any rule of the Department of Transportation of the privilege of entering the secured area of the port or obtaining an operating or mooring permit for any vessel in state waters for a period of not more than one year;
- (6) Stipulating that an individual deprived of operating or mooring any vessel in state waters that is allowed to resume these activities after the penalty period is completed shall assume the last position on any waiting list for such activities; and
- (7) Requiring commercial harbor tenants and users who violate any federal maritime transportation security law or rule that results in the Department of Transportation being assessed a fine by the United States Coast Guard to reimburse the Department of Transportation for the fine.

The Department of Transportation supported the measure.

Your Committee notes that a draft containing provisions to adopt an administrative civil procedure similar to those of the Department of Land and Natural Resources under chapter 199D, Hawaii Revised Statutes, was submitted by the Department of Transportation for consideration. Your Committee respectfully requests that upon its hearing and consideration of this measure the Committee on Finance consider this proposal.

Your Committee has amended this measure by changing its effective date to July 1, 2050, to promote further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2876, S.D. 2, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 2876, S.D. 2, H.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,


GILBERT KEITH-AGARAN, Chair



