

Honolulu, Hawaii

FEB 16 2012

RE: S.B. No. 2876
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2012
State of Hawaii

Sir:

Your Committees on Water, Land, and Housing and
Transportation and International Affairs, to which was referred
S.B. No. 2876 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify that persons cited by the Department of Transportation for non-criminal violations may appeal the citation and penalties pursuant to administrative procedures and not directly to District Court;
- (2) Clarify that citations and violations for traffic code and other criminal statutes are issued by law enforcement officers;
- (3) Direct rates, fees, fines, and penalties received by the Department of Transportation to be deposited into the harbor special fund; and
- (4) Authorize the Department of Transportation to collect reimbursements from tenants or harbor users that violate security rules, which causes penalties to be incurred by the Department from the United States Coast Guard.



Your Committees received testimony in support of this measure from the Department of Transportation.

Your Committees find that Act 16, Session Laws of Hawaii 2009, requires the Director of Transportation to regulate certain safety and security requirements and other related activities. However, existing statutes are unclear as to whether administrative hearings can be held to allow purported violators to contest non-criminal violations of chapter 266, Hawaii Revised Statutes. Your Committees find that it is necessary to amend the law to clarify that administrative hearings may be held rather than adjudicated in court. Further clarification is also needed to ensure that the fees and fines pursuant to these violations are properly deposited into the harbor special fund.

Your Committees further find that the United States Coast Guard is authorized under federal laws to fine the Department of Transportation for violations of environmental protection and maritime transportation security. Currently, the Department is authorized to collect amounts from the commercial harbor tenant or user who caused the environmental protection violations but not for security violations. This measure will authorize the Department to collect those amounts for security violations and any costs or expenses incurred by the Department resulting from enforcement.

Your Committees have amended this measure by making technical, nonsubstantive amendments for the purposes of clarity and consistency.

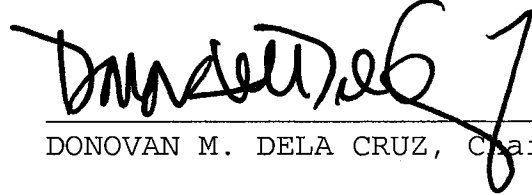
As affirmed by the records of votes of the members of your Committees on Water, Land, and Housing and Transportation and International Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2876, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2876, S.D. 1, and be referred to the Committee on Ways and Means.



Respectfully submitted on
behalf of the members of the
Committees on Water, Land, and
Housing and Transportation and
International Affairs,



J. KALANI ENGLISH, Chair

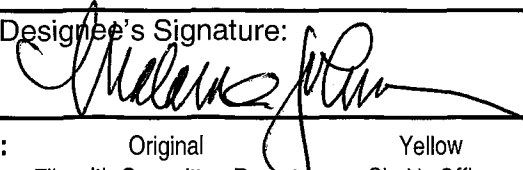


DONOVAN M. DELA CRUZ, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Water, Land and Housing
WLH

Bill / Resolution No.:*	Committee Referral:	Date:		
SB2876	WLH/TIA,WAM	2/13/12		
<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
DELA CRUZ, Donovan M. (C)	✓			
SOLOMON, Malama (VC)	✓			
FUKUNAGA, Carol				✓
RYAN, Pohai	✓			
SHIMABUKURO, Maile	✓			
TOKUDA, Jill N.				✓
SLOM, Sam				✓
TOTAL	4			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

