

Honolulu, Hawaii

MAR 02 2012

RE: S.B. No. 2923
S.D. 2

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

Sir:

Your Committee on Judiciary and Labor, to which was referred
S.B. No. 2923, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OPIHI HARVESTING AND
POSSESSION RESTRICTIONS,"

begs leave to report as follows:

The purpose and intent of this measure is to rehabilitate the
natural populations of all Hawaiian opihi species and establish a
new direction for the management of the fishery. Specifically,
this measure:

- (1) Establishes a ban on taking, harvesting, or possessing
opihi from off-shore islets in the State or statewide
from below the waterline; and on taking or harvesting
opihi from above the waterline of the coastal areas or
nearshore waters of the State or possessing opihi in the
State during specified closed seasons;
- (2) Creates a taking or harvesting bag limit for non-
commercial purposes each day during an open season;
- (3) Provides exceptions to the ban for the Kaho'olawe Island
Reserve and for persons exercising native Hawaiian
gathering rights and traditional practices;
- (4) Establishes reporting requirements for the Division of
Aquatic Resources of the Department of Land and Natural
Resources; and



- (5) Establishes a five-year moratorium on the harvesting of opihi from the coastal areas or nearshore waters of Oahu.

Your Committee received testimony in support of this measure from the University of Hawaii, the Office of Hawaiian Affairs, the Nature Conservancy, and one private individual. Testimony in opposition to this measure was submitted by Tamashiro Market, Inc.; Boyd's Fish Market; Yama's Fish Market, Inc.; and one private individual. The Department of Land and Natural Resources submitted comments.

Your Committee finds that opihi picking is a dangerous activity. "*He i'a make ka 'opihī*" means "opihī is the fish of death". A review conducted by the Department of Health reported that from 1993 to 1997, nine people drowned while picking opihi. On the Big Island alone between 1999 and 2009, at least thirteen opihi pickers died from drowning, falls from cliffs, or in one case, getting stuffed into a blowhole by waves.

Your Committee further finds that despite the dangers of this activity, opihi is a delicacy that holds great cultural importance. As such, opihi populations are dwindling due to popularity and overharvesting. The breeding of adult opihi needs to be protected to ensure opihi populations will replenish themselves. Opihi have free swimming larvae that can disperse from the no take areas into areas where harvesting is legal. However, Oahu requires more drastic actions to rehabilitate its opihi populations due to overharvesting.

Your Committee notes the Department of Land and Natural Resources' comments regarding the feasibility of establishing a non-commercial opihi harvesting permit to enable the Department to enforce the provisions in this measure. However, your Committee recognizes that the purpose and intent of this measure is to protect and rehabilitate the natural populations of all Hawaiian opihi species that are susceptible to overharvesting by both commercial and non-commercial opihi pickers. Thus, your Committee believes that regulating only the non-commercial opihi pickers through a bag limit requirement and requiring them to acquire a permit undermines the purpose and intent of this measure.

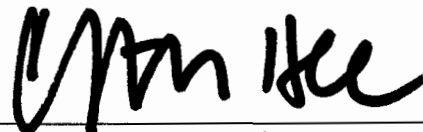
Your Committee has amended this measure by:



- (1) Deleting the provision that prohibits the taking or harvesting of opihi for non-commercial purposes in an amount greater than one quart with shells attached or one half pint without shells per day;
- (2) Deleting the specific closed season dates of April 15 through July 15, and November 1 through February 15, and requiring the Division of Aquatic Resources of the Department of Land and Natural Resources and the Hawaii Institute of Marine Biology of the University of Hawaii to jointly determine the dates for open and closed opihi harvesting seasons; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2923, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2923, S.D. 2.

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



CLAYTON HEE, Chair



