

STAND. COM. REP. NO. 162

Honolulu, Hawaii

FEB 11 2013

RE: S.B. No. 5

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawaii

Madam:

Your Committees on Water and Land and Agriculture, to which was referred S.B. No. 5 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LANDS,"

beg leave to report as follows:

The purpose and intent of this measure is to provide fair compensation to lessees when a withdrawal or taking of leased land renders the land unusable for the lessees' original intended purposes.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources, Ulupono Initiative, Local Foods Coalition, and Hawaii Farm Bureau Federation.

Your Committees find that the Department of Land and Natural Resources established conservation easements on approximately six thousand acres of lands, originally leased for pasture or special livestock use, in order to widen Saddle Road in the County of Hawaii. As a result, the lessee ranchers were prevented from grazing cattle and effectively deprived of their use of the land.

Although the Department reduced the lease rent in proportion to the taking of the land, the lessees received no other compensation. Existing law provides no other method of compensation. However, the lessees are still required by their leases to maintain insurance on the land and pay taxes for the land they cannot use for the specific purpose for which it was originally leased. As a result, several lessees reduced their

2013-1155 SSCR SMA.doc



herd and have been unable to mitigate the long-term, fixed costs associated with operating a ranch in the way they anticipated when the lease was negotiated. Thus, the lessees have experienced financial hardship for an extended period of time that is not sufficiently mitigated by a reduction in their lease rent.

S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1, Regular Session of 2010, attempted to address this issue by providing fair compensation when leased public land for agricultural or pastoral uses is withdrawn, condemned, or taken for public purposes. Although this measure passed the Legislature, it was vetoed by the Governor on the grounds that the bill "disproportionately and inappropriately compensates these lessees of public lands above other lessees of State lands."

Your Committees believe that rent reduction is insufficient, especially if the lessor fails to recognize that the law is designed to take into account a lessee's original intended purpose for leasing the land. This measure is necessary to provide more equitable relief to lessees of public lands in partial takings or condemnations where the lessee is prevented from using the lands as originally intended.

As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 5 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Agriculture,



CLARENCE K. NISHIHARA, Chair



MALAMA SOLOMON, Chair



