

Honolulu, Hawaii

APR 05 2013

RE: H.B. No. 17
H.D. 1
S.D. 2

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

Madam:

Your Committee on Judiciary and Labor, to which was referred
H.B. No. 17, H.D. 1, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COASTAL AREAS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Delete the "one gallon per person per day" exception to the prohibition against the removal of sand and other beach or marine deposits, except for materials inadvertently taken, and create an exemption for public emergencies and traditional cultural practices;
- (2) Clarify, upon the request of the Department of Land and Natural Resources, that Act 160, Session Laws of Hawaii 2010 (Act 160), is not to be construed to modify or alter any agreement of the Department of Land and Natural Resources that was in effect or executed on the effective date of Act 160; and
- (3) Extend the sunset date of Act 160 by two years to ensure public lateral access along the shoreline by requiring landowners to remove human-induced, enhanced, or unmaintained vegetation interfering with such access and extending the Department's enforcement duty to maintain such access.



Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, Office of Hawaiian Affairs, Kailua Neighborhood Board No. 31, Kuliouou/Kalani Iki Neighborhood Board No. 2, Sierra Club of Hawaii, Building Industry Association of Hawaii, Hawaii's Thousand Friends, The Chamber of Commerce of Hawaii, and twelve individuals. Testimony in opposition to this measure was submitted by the Hawaii Association of REALTORS and one individual. The Office of Planning submitted comments.

Your Committee finds that some landowners intentionally promote the growth of shoreline vegetation or promote vegetation along makai to mauka beach transit corridors in an attempt to increase the area of their property while decreasing coastal public trust assets. Act 160 requires that landowners remove human-induced, enhanced, or unmaintained vegetation interfering with such access. Act 160 protects coastal public resource assets and requires the Department of Land and Natural Resources to maintain access within beach transit corridors.

Your Committee notes that Act 160 is scheduled to sunset on June 30, 2013. The Department of Land and Natural Resources testified that it has successfully used Act 160 to compel offending landowners to cut back vegetation that inhibits lateral shoreline access. Thus, the Department suggested that this measure be amended by making Act 160 permanent rather than extending the sunset date for an additional two years.

Your Committee further notes the suggestion raised by a testifier that the prohibition against the removal of sand and other beach or marine deposits should be clarified to apply only to naturally occurring deposits.

Your Committee has amended this measure by:

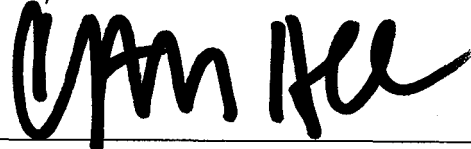
- (1) Adopting the amendment suggested by the Department of Land and Natural Resources by repealing the sunset provision of Act 160; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

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 H.B.



No. 17, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 17, H.D. 1, S.D. 2.

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



CLAYTON HEE, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 17, HD1, SD1	WTL, JDL	3/28/13		
<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)	✓			
SHIMABUKURO, Maile S.L. (VC)	✓			
GABBARD, Mike	✓			
IHARA, Jr., Les				✓
SLOM, Sam	✓			
TOTAL	4			1
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