

STAND. COM. REP. NO. **3077**

Honolulu, Hawaii

MAR 21 2014

RE: H.B. No. 1823
H.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Madam:

Your Committees on Water and Land and Judiciary and Labor, to which was referred H.B. No. 1823, H.D. 1, 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 authorize the Board of Land and Natural Resources to provide for nonbinding mediation of disputes regarding the sale price or lease rental of public lands in transactions involving the purchase, lease, or repurchase of the public lands and the fair market rental of public lands under lease when rentals are reopened. This measure also preserves the option of binding arbitration to resolve disputes when the mediation process fails to do so.

Your Committees received testimony in support of this measure from the Hawaii Cattlemen's Council, Inc.; Ponoholo Ranch, Ltd.; Chika Nakano Repair Shop; Japanese Chamber of Commerce & Industry; McCully Works; Sand Island Business Association; Maui Cattlemen's Association; and three individuals. Your Committees received testimony in opposition to this measure from the Department of Land and Natural Resources.

Your Committees find that mediation is an effective method of resolving disputes that should be made available to resolve disputes regarding the sale price, lease rental, or fair market rental of public lands in transactions involving the board of land and natural resources and private purchasers, owners, or leaseholders. The present statutory framework for the arbitration



of such disputes is cumbersome and does not provide the parties an opportunity to work collaboratively toward mutual solutions to disputes.

Your Committees further find that mediation is typically less expensive and is a more reasonable and appropriate approach to resolving a rental dispute. A policy of transparency regarding the sharing of appraisal reports prior to mediation would help the process immensely and garner support to further the spirit of cooperation between parties.

Your Committees believe that:

- (1) The release of the initial appraisal commissioned by the Department of Land and Natural Resources to arrive at a proposed lease rent provides the lessee with the opportunity to review the report before making a decision to accept or reject the rent. This action is fair and allows the lessee to make an informed decision, which is always preferable;
- (2) While arbitration was originally envisioned as being an effective, low cost means of dispute resolution, it has evolved into a much more expensive and time consuming process. Mediation, when entered into in good faith, seems to be a reasonable and proper beginning to a disagreement and may lead to a reasonable resolution at a very low cost, which is very important to farmers and small businesses; and
- (3) The transition from a three-member panel to a single mediator provides an immediate cost savings if only by reduction in numbers.

This measure could ultimately keep farmers and ranchers on state leased lands to produce food and other agricultural products. Your Committees find that farmers and their families who have worked hard, farmed or ranched successfully, and paid their rent faithfully for many years should not lose their farms and their livelihoods simply because their leases expire and are reopened at rents that have escalated to the point of being unaffordable by most agricultural ventures.

As affirmed by the records of votes of the members of your Committees on Water and Land and Judiciary and Labor that are



attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1823, H.D. 1, 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 Judiciary and Labor,



CLAYTON HEE, Chair




MALAMA SOLOMON, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

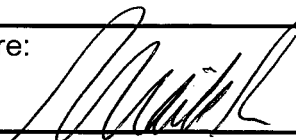
Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB1823 HDI	WTL/JDL, WAM	3-20-14		
<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 checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SOLOMON, Malama (C)	✓			
GALUTERIA, Brickwood (VC)	✓			
DELA CRUZ, Donovan M.				✓
IHARA, Jr., Les		✓		
RUDERMAN, Russell E.	✓			
SHIMABUKURO, Maile S.L.	✓			
TANIGUCHI, Brian				✓
THIELEN, Laura H.			✓	
SLOM, Sam				✓
TOTAL	4	1	1	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

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 1823 HD1	WTL/JDL, WAM	3/20/14		
<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 checked="" type="checkbox"/> Pass, unamended 2312 <input 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	✓			
GALUTERIA, Brickwood	✓			
IHARA, Jr., Les	MS	✓		
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	5	1		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	

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