

STAND. COM. REP. NO.

295

Honolulu, Hawaii

FEB 14 2013

RE: S.B. No. 1009
S.D. 1

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

Madam:

Your Committees on Public Safety, Intergovernmental and Military Affairs and Judiciary and Labor, to which was referred S.B. No. 1009 entitled:

"A BILL FOR AN ACT RELATING TO TORT LIABILITY,"

beg leave to report as follows:

The purpose and intent of this measure is to make permanent Act 170, Session Laws of Hawaii 2002 (Act 170), which shields county lifeguards from liability, with certain exceptions, by repealing the sunset date.

Your Committees received testimony in support of this measure from the Department of the Attorney General; Department of Land and Natural Resources; State Fire Council; Kauai Fire Department; Department of the Corporation Council, City and County of Honolulu; Honolulu Emergency Services Department, City and County of Honolulu; Department of Fire and Public Safety, County of Maui; County Council, County of Maui; Hawaii Fire Department, County of Hawaii; and Hawaiian Lifeguard Association. Your Committees received testimony in opposition to this measure from the Hawaii Association for Justice.

Your Committees find that the liability protections afforded to lifeguards under Act 170 will sunset on June 30, 2014. Act 170 provides liability protection for lifeguard services on the beach or in the ocean, except for gross negligence or wanton acts or omissions.




This limited liability protection is necessary because in the past, certain counties would not provide lifeguard services at state beach parks due to the fear of potential liability that might ensue. Your Committees find that Act 170 has created a climate in which lifeguard services can be provided by the counties without fear of liability, and therefore, it is a life-saving measure that should be made permanent.

Your Committees have amended this measure by:

- (1) Inserting an effective date of January 1, 2020, to encourage further discussion; and
- (2) 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 Public Safety, Intergovernmental and Military Affairs and Judiciary and Labor that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1009, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1009, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Public Safety, Intergovernmental and Military Affairs and Judiciary and Labor,



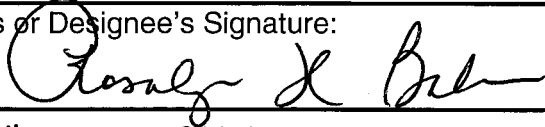
CLAYTON HEE, Chair



WILL ESPERO, Chair

The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

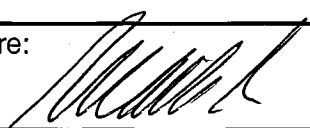
Record of Votes
Committee on Public Safety, Intergovernmental and Military Affairs
PSM

Bill / Resolution No.:* SB 1009	Committee Referral: PSM/JDL, WAM	Date: 2-11-2013		
<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
ESPERO, Will (C)	✓			
BAKER, Rosalyn H. (VC)	✓			
GALUTERIA, Brickwood	✓			
GREEN, Josh				✓
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

The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 1009	PSM/JDL, WAM	2/11/13		
<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	5			
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

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