

Honolulu, Hawaii

February 11, 2014

RE: S.B. No. 1170
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Seventh State Legislature
Regular Session of 2014
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1170, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO ENFORCEMENT OF VIOLATIONS BY THE DEPARTMENT OF LAND AND NATURAL RESOURCES,"

begs leave to report as follows:

The purpose of this measure is to strengthen the ability of the Board of Land and Natural Resources (Board) to enforce administrative penalties by empowering the Board to:

- (1) Authorize the performance of natural or cultural resource-related community service in lieu of or in addition to fines imposed by the Board;
- (2) Suspend or revoke Board-issued licenses or permits; and
- (3) Direct the denial of motor vehicle registration as a penalty,

for the violation of rules or statutes related to conservation and resources, caves, or historic preservation.

The Department of Land and Natural Resources, Office of Hawaiian Affairs, The Nature Conservancy, and two concerned individuals testified in support of this measure. Several concerned individuals testified in opposition to this measure.

SB1170 HD1 HSCR JUD HMS 2014-1576-1



Your Committee respectfully notes that granting the Board the ability to authorize community service in lieu of or in addition to fines imposed by the Board raises a potential 13th Amendment concern worthy of consideration, which came to your Committee's attention after decision-making. Should your Committee on Finance choose to consider this measure, your Committee respectfully requests that the Committee on Finance inquire further as to the constitutionality of imposing community service without the protection of the full judicial process.

Your Committee has amended this measure by:

- (1) Authorizing, rather than requiring, the county directors of finance to deny motor vehicle registration applications upon receipt of notice from the Board that a condition imposed by the Board has not been discharged;
- (2) Clarifying that the appropriate director of finance shall not approve an application for registration, which has been denied pursuant to a Board-imposed condition, until receipt of certification of satisfactory compliance from the Board; and
- (3) Limiting entities under which individuals may perform Board-ordered community service to state agencies.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1170, S.D. 2, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 1170, S.D. 2, H.D. 1.

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



KARL RHOADS, Chair



