

STAND. COM. REP. NO. 2487

Honolulu, Hawaii

FEB 27 2014

RE: S.B. No. 180
S.D. 2

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

Madam:

Your Committee on Water and Land, to which was referred S.B. No. 180, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO OCEAN MANAGEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to amend section 187A-23, Hawaii Revised Statutes, to vest in the village elder who is domiciled on Niihau exclusive konohiki rights and to make clarifying amendments to the duties and powers of the konohiki.

Your Committee received testimony in support of this measure from the Association of Hawaiian Civic Clubs and eight individuals. Your Committee received testimony in opposition to this measure from the Ocean Tourism Coalition and seven individuals. Your Committee received comments on this measure from the Department of Land and Natural Resources and one individual.

Your Committee finds that Niihau has approximately one hundred thirty permanent inhabitants, nearly all of whom are Native Hawaiians who live in the island's main settlement of Pu'uwai. They support themselves largely by subsistence fishing and farming, in the manner of the ancient Hawaiians. Residents speak the Hawaiian language as their first language to help preserve Hawaiian culture and tradition. Niihau is perhaps the last remaining vestige of that Native Hawaiian culture and tradition. The translation of the term "konohiki" is headman of an ahupua'a land division under the chief. The konohiki

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traditionally controlled land or fishing rights under the control of the konohiki, also referred to as konohiki rights.

Elizabeth McHutchison Sinclair (1800-1892) purchased Niihau and parts of Kauai from Kamehameha V in 1864. Private ownership passed on to her descendants, the Robinson family. In 1915, Sinclair's grandson Aubrey Robinson closed the island to most visitors. Even relatives of the inhabitants could visit only by special permission. Upon Aubrey's death in 1939, the island passed to his son Aylmer, and in 1968 to Aylmer's youngest brother Lester. Upon Lester's wife's death, the island passed to Lester's sons, Bruce and Keith Robinson, the current co-owners.

Your Committee finds that section 187A-23, Hawaii Revised Statutes, recognizes konohiki rights. This Act fulfills the intent of Kamehameha V in deeding Niihau to Elizabeth McHutchison Sinclair, that she and her heirs manage the island as private property. In effect, this measure is conferring on the Robinson family the same powers and privileges that King Kamehameha V bestowed on them and their heirs.

Your Committee also finds that this measure facilitates Native Hawaiian recognition as provided in statute under chapter 10H, Hawaii Revised Statutes, relating to Native Hawaiian recognition. Specifically, section 10H-1, Hawaii Revised Statutes, provides: "The Native Hawaiian people are hereby recognized as the only indigenous, aboriginal, maoli people of Hawaii."

Your Committee wishes to comment that this measure is a work in progress and by recommending it for passage on Second Reading, your Committee intends for the discussions to continue.

Your Committee has amended this measure by:

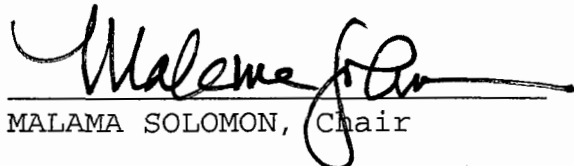
- (1) Inserting a purpose section;
- (2) Establishing konohiki rights for Niihau as a separate chapter in the Hawaii Revised Statutes, rather than amending section 187A-23, Hawaii Revised Statutes;
- (3) Specifying that an individual, rather than an adult kupuna, may be vested with konohiki rights on Niihau;



- (4) Specifying that the konohiki of Niihau shall be selected by the Chairperson of the Board of Land and Natural Resources in consultation with the private owner of Niihau;
- (5) Extending the fishing grounds of Niihau subject to konohiki rights from the distance of one geographical mile seaward of the beach at low watermark to the distance of two geographical miles seaward of the shoreline;
- (6) Specifying that vested fishing rights of the private fishery shall be established by rules adopted by the Department of Land and Natural Resources, rather than pursuant to proceedings in conformity with the Organic Act;
- (7) Amending the rights of the konohiki of Niihau to delete language relating to the exclusive right of the konohiki to take certain species or aquatic life set apart by the konohiki; and
- (8) 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 Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 180, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 180, S.D. 2, and be placed on the calendar for Third Reading.

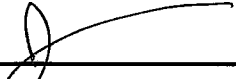
Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


MALAMA SOLOMON, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB180, SDI	Committee Referral: WTL	Date: 2/14/14		
<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 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
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	3	2		4
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