

Honolulu, Hawaii

FEB 14 2014

RE: S.B. No. 3122
S.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 Hawaiian Affairs and Economic Development,
Government Operations and Housing, to which was referred S.B.
No. 3122 entitled:

"A BILL FOR AN ACT RELATING TO HAWAII COMMUNITY DEVELOPMENT
AUTHORITY, "

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require that the Office of Hawaiian Affairs conduct a public hearing regarding any plan or proposal for any residential development in Kakaako prior to submission of the plan or proposal to the Hawaii Community Development Authority (HCDA) and approval of the plan or proposal by HCDA; and
- (2) Exempt the Office of Hawaiian Affairs' Kakaako lands from the requirements of section 206E-12, Hawaii Revised Statutes, regarding the dedication of public facilities by developers as a condition of developing real property pursuant to the community development plan.

Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs, Oahu Council of the Association of Hawaiian Civic Club, Association of Hawaiian Civic Clubs, King Kamehameha HCC, Pearl Harbor Hawaiian Civic Club, Ko'olaupoko Hawaiian Civic Club, Kuakini Hawaiian Civic Club of Kona, Ho'okipa Network - Kauai, Hawaiian Affairs Caucus of the



Democratic Party of Hawaii, Council for Native Hawaiian Advancement, and forty-one individuals. Your Committees received testimony in opposition to this measure from the Kanehili Cultural Hui, Friends of Kewalos, Hawaii's Thousand Friends, Community Planning Advisory Council, and fifty-five individuals. Your Committees received comments on this measure from the Attorney General and four individuals.

Your Committees find that, in 2012, the Office of Hawaiian Affairs was awarded ten parcels of land in Kakaako to settle certain claims against the State. The ten parcels in Kakaako were appraised at \$200,000,000. In order for the Office of Hawaiian Affairs to realize the full value of these lands, the Office of Hawaiian Affairs must have the ability to construct residential developments. In 2006, however, the Legislature banned residential development in the Kakaako Makai area in response to community concerns regarding preserving open space. Based on these continued community concerns, your Committees believe that six of the ten parcels awarded to the Office of Hawaiian Affairs along the Kewalo Basin waterfront and the site of the Office of Hawaiian Affairs' former homeless shelter on the waterfront should not be authorized for residential development. The remaining lots, however, should be available for residential use. Your Committees conclude that this compromise strikes a balance between the concerns of the community and Native Hawaiian entitlements.

Your Committees note that testimony from the Office of the Attorney General contended that the authorization of residential use on the Office of Hawaiian Affairs' lands in Kakaako may violate the state constitution. However, your Committees are not persuaded by the arguments made by the Office of the Attorney General.

Accordingly, your Committees have amended this measure by:

- (1) Authorizing residential development on only those Kakaako parcels owned by the Office of Hawaiian Affairs, identified as tax map keys 2-1-15-61, 2-1-58-6, 2-1-60-4, 2-1-60-5, and 2-1-60-6;
- (2) Requiring that the applicant for residential development on those parcels, rather than the Office of Hawaiian Affairs, hold a public hearing prior to submitting plans or proposals to HCDA;



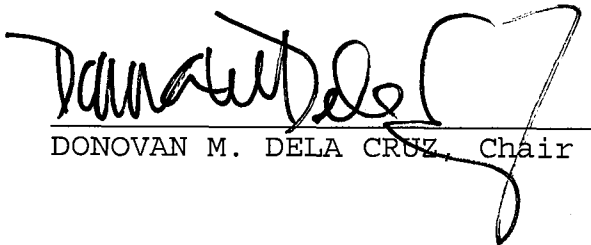
- (3) Requiring that the applicant for residential development, rather than the Office of Hawaiian Affairs, consider all written and oral submissions from the public hearing prior to submitting any plan or proposal for residential development to HCDA;
- (4) Inserting language to require HCDA to hold a public hearing prior to approving any plan or proposal for residential development;
- (5) Inserting language to require HCDA to consider all written and oral submissions from the applicant's public hearings, as well as its own public hearings, prior to approving any plan or proposal for residential development in Kakaako;
- (6) Inserting language to establish a height limit of four hundred feet for two Kakaako parcels owned by the Office of Hawaiian Affairs identified as tax map keys 2-1-15-61 and 2-1-58-6;
- (7) Inserting language to establish a Kakaako makai association fee to be collected from all residential owners in Kakaako on parcels identified as tax map keys 2-1-15-61, 2-1-58-6, 2-1-60-4, 2-1-60-5, and 2-1-60-6;
- (8) Inserting language to establish a Kakaako makai special account within the Hawaii community development revolving fund to be used to fund various services and projects, including but not limited to maintenance, improvements, free public parking for park users, public beach access, security, and parks and open spaces, for the Kakaako Community Development District makai of Ala Moana Boulevard and between Kewalo Basin and the foreign trade zone;
- (9) Removing amendments to section 1-28.5, Hawaii Revised Statutes, relating to the definition of government agency, for the purpose of clarity; and
- (10) 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 Hawaiian Affairs and Economic Development,




Government Operations and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3122, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3122, S.D. 1, and be referred to the Committee on Judiciary and Labor.

Respectfully submitted on behalf of the members of the Committees on Hawaiian Affairs and Economic Development, Government Operations and Housing,



DONOVAN M. DELA CRUZ, Chair




MAILE S.L. SHIMABUKURO, Chair



The Senate
 Twenty-Seventh Legislature
 State of Hawai'i

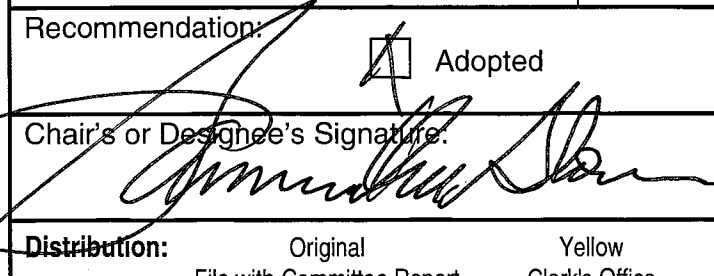
Record of Votes
Committee on Hawaiian Affairs
HWN

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|--|---------------------|----------|-----|---------|
| Bill / Resolution No.:* | Committee Referral: | Date: | | |
| SB3122 | HWN/EGH, JDL | 2/12/14 | | |
| <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 |
| SHIMABUKURO, Maile S.L. (C) | ✓ | | | |
| HEE, Clayton (VC) | | | | ✓ |
| GALUTERIA, Brickwood | ✓ | | | |
| KIDANI, Michelle N. | ✓ | | | |
| SLOM, Sam | | ✓ | | |
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| 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 Economic Development, Government Operations and Housing
EGH

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| Members | Aye | Aye (WR) | Nay | Excused |
| DELA CRUZ, Donovan M. (C) | X | | | |
| SLOM, Sam (VC) | | X | | X |
| BAKER, Rosalyn H. | | | | X |
| CHUN OAKLAND, Suzanne | | X | | |
| ENGLISH, J. Kalani | X | | | |
| THIELEN, Laura H. | | | | X |
| WAKAI, Glenn | X | | | |
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| Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted | | | | |
| Chair's or Designee's Signature:  | | | | |
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