

Honolulu, Hawaii

April 26, 2016

RE: H.B. No. 2501
H.D. 2
S.D. 2
C.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sirs:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 2501, H.D. 2, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO WATER RIGHTS,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this measure is to allow the Board of Land and Natural Resources to authorize the holdover of a previously authorized water rights lease during the pendency of an application to renew the lease.

Your Committee finds that as the State undergoes economic and environmental changes, it will be a challenge to achieve the goal of a sustainable, well-managed community in which food is grown locally and fresh water sources remain available for reasonable, beneficial uses. Your Committee believes that without continued access to a water source, there may be significant economic and social impacts on Hawaii's agricultural community and sustainability goals.

HB2501 CD1 CCR HMS 2016-3425



Your Committee notes that the Judge's decision in *Carmichael, et al. v. Board of Land and Natural Resources* (Civ. No. 15-1-0650-04), has created a very serious situation for agriculture in the State and brought into question the validity of water and land revocable permits. This uncertainty clouds the future not only of the lands used to grow sugar on Maui but for permit holders across the State.

Your Committee finds that there are currently nine holders of long-standing revocable water permits other than the one currently being litigated. Two of the nine holders are the local electric companies on Kauai and the Big Island, who use state water to generate hydropower. The other seven are ranchers, farmers and small businesses on Kauai and the Big Island, who use state waters to support their businesses. Many other users of agricultural lands have testified in support of a solution, worried that their operations too may also be in jeopardy.

The situation on Maui, though, is emblematic of the challenges that the State faces when one era ends and a new future is contemplated. Your Committee finds that it is in the State's interest to respond to the closure of the sugar industry and to facilitate the revitalization of Maui's economy.

This change has had a very real impact on peoples' lives as 650 people have lost their jobs. The abrupt termination of water rights on Maui could have even more serious consequences for the community as the Attorney General's Office worried that:

"[N]ot continuing the permit could result in people being left with no drinking water, farmers being left with no water for their fields, and schools and hospitals being forced to shut down."

This is water that is delivered to the County of Maui's upcountry Maui water treatment plant, serving the water needs of 36,000 upcountry residents and farmers, and to support the transition to diversified agriculture. Recently announced efforts to transition to diversified agriculture may be in jeopardy without an adequate supply of reliable, cost-efficient water.

Embracing this transition is in line with the State's constitutional duty to conserve and protect agricultural lands, promote diversified agriculture, increase agricultural self-sufficiency and assure the availability of agriculturally suitable



lands. Currently, there are 27,000 acres of Important Agricultural Lands whose status may be threatened if water rights were terminated. According to section 205-50, Hawaii Revised Statutes, "if a sufficient supply of water is no longer available to allow profitable farming of the land" a landowner may petition to remove the Important Agricultural Lands designation. It is estimated that any less than 3,500 gallons of water per acre per day would put that status of those 27,000 acres in jeopardy.

Your Committee also notes that along with this measure, two positions were provided for in the budget to expedite the applications to continue previously-authorized dispositions of water rights. In addition \$1.5 million will be spent on a United States Geological Survey study on streams statewide.

Your Committee finds that the provision of drinking water; the generation of clean, renewable energy; and the support of agriculture and agricultural lands has a clear value to the public. The intent of this measure is to provide for a three year window to resolve applications to continue a previously authorized water use by the Department of Land and Natural Resources in order to prevent their abrupt cessation and the resulting negative social and economic impacts that would threaten our communities.

Your Committee on Conference amended this measure by:

- (1) Deleting the appropriation for the Department of Land and Natural Resources to hire for two positions to expedite applications to continue previously-authorized dispositions of water rights;
- (2) Clarifying that this measure is applicable to applications for the disposition of water rights that are pending before the Board of Land and Natural Resources on its effective date or filed prior to June 30, 2019; and
- (3) Making technical nonsubstantive changes for the purposes of clarity, consistency, and style.


As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 2501, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2501, H.D. 2, S.D. 2, C.D. 1.



Respectfully submitted on behalf
of the managers:

ON THE PART OF THE SENATE


ON THE PART OF THE HOUSE




MIKE GABBARD, Chair



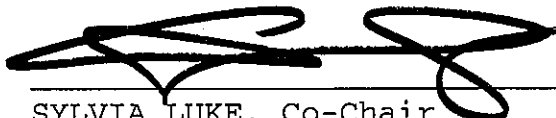
RYAN YAMANE, Co-Chair



JILL N. TOKUDA, Co-Chair



KARL RHOADS, Co-Chair



SYLVIA LUKE, Co-Chair



Record of Votes of a
Conference Committee

Bill / Concurrent Resolution No.: HB 2501, HD 2, SD 2	Date/Time: 4/22/16 5:00 pm
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The recommendation of the House and Senate managers is to pass with amendments (CD).

The Committee is reconsidering its previous decision.

<input type="checkbox"/> The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure	<input type="checkbox"/> The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.
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Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
GABBARD, Mike, Chr.	/				YAMANE, Ryan I., Co-Chr.	/			
TOKUDA, Jill N., Co-Chr.	/				RHOADS, Karl, Co-Chr.	/			
DELA CRUZ, Donovan M.	/				LUKE, Sylvia, Co-Chr.	/			
SLOM, Sam				/	CULLEN, Ty J.K.	/			
					FUKUMOTO CHANG, Beth	/			
TOTAL	3			1	TOTAL	5			

A = Aye WR = Aye with Reservations N = Nay E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
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Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature:
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