

Honolulu, Hawaii

APR 07 2017

RE: H.B. No. 437
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred H.B. No. 437, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO COASTAL ZONE MANAGEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Prohibit a waiver of a public hearing for action on a variance application for a shoreline hardening structure that will artificially fix the shoreline, including a seawall, revetment, or groin; and
- (2) Prohibit a variance from being granted for the construction of a shoreline hardening structure unless the applicant can demonstrate that the shoreline hardening structure is necessary to protect an existing legal object, structure, or activity from damage due to shoreline erosion, and the object, structure, or activity cannot reasonably be protected by relocating it outside the shoreline area.

Your Committee received testimony in support of this measure from the Department of Transportation; Office of Hawaiian Affairs; Hawai'i Alliance for Progressive Action; We Are One, Inc.; and fifteen individuals. Your Committee received testimony in



opposition to this measure from the Outrigger Enterprises Group, Land Use Research Foundation of Hawaii, and one individual. Your Committee received comments on this measure from the Department of Land and Natural Resources and Office of Planning.

Your Committee finds that the purpose of shoreline setbacks is to locate new structures sufficiently inland from the shoreline to conserve open space, minimize interference with natural shoreline processes, and minimize loss of improvements due to erosion. Shoreline hardening structures are necessary in some instances to protect property and infrastructure; however, poor planning and excess of such structures have resulted in the erosion of beaches and shorelines throughout the State. This measure provides greater oversight and accountability and limits the approval of shoreline hardening structures to those instances where the structure is crucial to protect property and infrastructure.

Your Committee notes the written comments submitted by the Office of Planning that no variance application for a shoreline hardening structure can guarantee an approval even when the applicant demonstrates that the shoreline hardening structure is necessary. Furthermore, the Office of Planning submitted several comments regarding findings that the authority should make in determining whether to grant a variance for a shoreline hardening structure that will artificially fix the shoreline.

Accordingly, your Committee has amended this measure by:

- (1) Adopting the suggestions of the Office of Planning to:
 - (A) Delete language that would have prohibited a variance from being granted for the construction of a shoreline hardening structure unless the applicant could demonstrate that the shoreline hardening structure is necessary; and
 - (B) Insert language that establishes findings that the authority must make in determining whether a variance may be granted for a shoreline hardening structure that will artificially fix the shoreline;



- (2) Deleting references to "objects" under the context of relevant structures or activities affected by shoreline erosion; and
- (3) 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 Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 437, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 437, H.D. 2, S.D. 2.

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


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
HB 437 HD2 SD1	WTL, JDL	4/4/17		
<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
KEITH-AGARAN, Gilbert S.C. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike				✓
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
TOTAL	4	0	0	1
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
<i>Karl Rhoads</i>				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes