

STAND. COM. REP. NO.

1089

Honolulu, Hawaii

MAR 24 2017

RE: H.B. No. 575
H.D. 1
S.D. 1

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

Sir:

Your Committee on Water and Land, to which was referred H.B. No. 575, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC LANDS,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the Board of Land and Natural Resources to extend commercial, hotel, resort, and industrial leases for state lands in the Banyan Drive and Kanoelehua industrial area of Hilo, Hawaii, for the lessee to make qualifying substantial improvements to the land.

Your Committee received testimony in support of this measure from the Hawaii Government Employees Association; East Hawaii Region of Hawaii Health Systems Corporation; Chamber of Commerce Hawaii; Kanoelehua Industrial Area Association; Building Industry Association; Hawaii Bankers Association; Hawaii Island REALTORS; HPM Building Supply; Mauna Kea Infrared, LLC; Big Island Toyota, Inc.; and nine individuals. Your Committee received testimony in opposition to this measure from the Department of the Attorney General. Your Committee received comments on this measure from the Office of the Mayor of the County of Hawai'i and one individual.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1 of this



measure. The proposed S.D. 1 deleted the contents of this measure and inserted provisions that:

- (1) Authorize the lessees of public land in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawaii, to relinquish a lease during the last ten years of the term of the lease, subject to certain conditions;
- (2) Allow the relinquishing lessees to bid on the new lease at public auction; and
- (3) Change the effective date to upon approval.

Your Committee received testimony in support of the proposed S.D. 1 from the Hawaii Government Employees Association, Chamber of Commerce Hawaii, Kanoelehua Industrial Area Association, Hawai'i Association of REALTORS, and HPM Building Supply. Your Committee received testimony in opposition to the proposed S.D. 1 from the Department of the Attorney General. Your Committee received comments on the proposed S.D. 1 from the Department of Land and Natural Resources, Office of the Mayor of the County of Hawai'i, and one individual.

Your Committee finds that the maximum lease term of sixty-five years for public lands has the unfortunate consequence of a lessee having little economic incentive to invest in the property during the last ten years of the lease term. Additionally, lessees may encounter difficulties obtaining financing for improvements to a leasehold property when the remaining lease term is insufficient to secure a mortgage on the property. Your Committee notes that the purpose behind the lease term limit is to maximize the public use and benefit of public lands. Your Committee finds that allowing lessees to relinquish a lease during the last ten years of the lease and subsequently bid for a new lease at public auction serves the public interest by maximizing public land benefits and discouraging deteriorating conditions near the end of a lease term.

Your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by:



- (1) Removing the limits of applicability to public land that is located in the Banyan Drive and Kanoelehua industrial areas of Hilo, Hawaii;
- (2) Clarifying that relinquishing the lease does not alter any obligation of the lessee to indemnify, defend, and hold the State harmless from certain claims regarding pollution or contamination;
- (3) Amending the definition of the term "improvements" to mean all physical improvements constructed, owned, or contributed and owned by the lessee during the lease term and excludes infrastructure constructed, owned, or constructed and owned by third parties;
- (4) Inserting an unspecified appropriation to the Department of Land and Natural Resources for costs incurred for implementation;
- (5) Inserting an effective date of March 15, 2099, to encourage further discussion; and
- (6) 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 H.B. No. 575, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 575, H.D. 1, S.D. 1, and be referred to your Committee on Ways and Means.

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



KARL RHOADS, Chair



