

STAND. COM. REP. NO. 451

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 110
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 S.B. No. 110 entitled:

"A BILL FOR AN ACT RELATING TO AQUATIC RESOURCES,"

begs leave to report as follows:

The purpose and intent of this measure is to authorize the Department of Land and Natural Resources to establish and operate in-lieu fee mitigation and to establish aquatic mitigation banking and aquatic in-lieu fee mitigation special funds.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources, Nature Conservancy Hawai'i, Conservation Council for Hawai'i, Democratic Party of Hawai'i, and four individuals. Your Committee received testimony in opposition to this measure from the Ocean Tourism Coalition, Quicksilver Charters, Sail Maui, and Maui Dive Shop. Your Committee received comments on this measure from the Department of Budget and Finance and Tax Foundation of Hawaii.

Your Committee finds that authorizing in-lieu fee mitigation will provide the Department of Land and Natural Resources (DLNR) with an innovative mechanism to improve state stewardship of aquatic public trust resources and habitats, increase accountability for aquatic resources damage, and provide higher quality remediation to make damaged resources whole again. In-lieu fee mitigation involves a third party mitigation sponsor who accepts funds from permit applicants or responsible parties required to provide compensation in order to mitigate actual



natural resource damage or prospective compensation, which the sponsor then uses to develop restoration projects. In-lieu fee sponsors are often public or private entities with experience, scientific expertise, and a vested long-term interest in natural resources conservation.

Your Committee notes that DLNR expects to accept fees in lieu of mitigation from permittees required to mitigate damage under the Clean Water Act, and that the federal government prefers, but does not require, fees to be deposited into special funds. DLNR may want to consider the benefit of using special funds in the future and advise the Legislature accordingly, but your Committee does not find special funds necessary at this time.

Your Committee has amended this measure by:

- (1) Deleting the establishment of an aquatic mitigation banking special fund and an aquatic in-lieu fee mitigation special fund;
- (2) Making conforming amendments; 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 Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 110, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 110, 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



The Senate
Twenty-Ninth Legislature
State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 110	Committee Referral: WTL, WAM	Date: 02-05-2017		
<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
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)	✓			
INOUE, Lorraine R.				✓
KIM, Donna Mercado				✓
THIELEN, Laura H.	✓			
TOTAL	3	—	—	2
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