

Honolulu, Hawaii

MAR 23 2018

RE: H.B. No. 2380  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred H.B. No. 2380, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO DISPOSITION WITHIN STATE BOATING FACILITIES,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Board of Land and Natural Resources to obtain prior authorization from the Legislature by concurrent resolution in order to lease any fast lands and submerged lands within any existing state boating facility by public auction, request for proposals, or direct negotiation; and
- (2) Repeal fast lands and submerged lands lease requirements specific to Ala Wai Boat Harbor.

Prior to the hearing on this measure, your Committee posted and made available for public review a proposed S.D. 1, which amends this measure by inserting language that:

- (1) Requires the Board of Land and Natural Resources to make a finding regarding certain sea level rise factors as a condition of approval to lease fast lands and submerged



lands within any existing state boating facility by public auction, request for proposals, or direct negotiation;

- (2) Allows for legislative authorization of leases that do not satisfy the finding regarding sea level rise factors when the Board of Land and Natural Resources demonstrates that extraordinary circumstances necessitate the lease; and
- (3) Changes the effective date to upon its approval.

Your Committee received testimony in opposition to the proposed S.D. 1 from the Department of Land and Natural Resources, Ocean Tourism Coalition, and two individuals.

Your Committee finds that existing law authorizes the Board of Land and Natural Resources to lease fast lands and submerged lands within an existing state boating facility by public auction, a request for proposals, or direct negotiation for private development, management, and operation. However, any lease of fast lands or submerged lands pursuant to a request for proposals is subject to section 200-2.6, Hawaii Revised Statutes (HRS), regardless of the state boating facility to which the fast or submerged lands are attached. Section 200-2.6, HRS, only applies to leases of the Ala Wai Boat Harbor and thus, this proposed S.D. 1 addresses this ambiguous reference by repealing fast lands and submerged lands lease requirements specific to Ala Wai Boat Harbor.

Your Committee notes the written testimony in opposition to the proposed S.D. 1 submitted by the Department of Land and Natural Resources, which indicates that requiring the Board of Land and Natural Resources to obtain prior authorization from the Legislature by concurrent resolution in order to lease any fast lands or submerged lands within any existing state boating facility would severely hinder efforts that are an integral part of the revenue generation for the boating special fund. Many of the existing leases are scheduled to expire while the Legislature is not in session, and the Department is currently considering transitioning its thirty-eight revocable permits into long-term leases. Thus, waiting for prior legislative authorization will result in properties remaining vacant and disruptions to the



revenue stream from lease rents that are used to support facilities and operations.

Your Committee further finds that in December 2017, the Hawaii Climate Change Mitigation and Adaptation Commission accepted the Hawaii Sea Level Rise Vulnerability and Adaptation Report (SLR Report). The first recommendation of the SLR Report is to "[r]ecognize the SLR-XA (Sea Level Rise Vulnerability Area) as a statewide vulnerability zone." The SLR-XA demonstrates the extent of the potential exposure of land and structures to flooding and erosion with an increase of 0.5, 1.1, 2.0, and 3.2 feet of sea level rise throughout the State. Thus, the proposed S.D. 1 recognizes and addresses the risks of sea level rise by requiring the Board of Land and Natural Resources to make a finding regarding certain sea level rise factors, with an exception to allow legislative authorization for extraordinary circumstances, prior to leasing any fast lands and submerged lands within any existing state boating harbor.

While obtaining prior legislative authorization for all leases of fast lands and submerged lands within any existing state boating facility may hinder the Department of Land and Natural Resources' revenue stream, your Committee asserts that sea level rise poses a substantial threat to the Department's revenue stream and operations. However, your Committee notes that the term "minimal", as used in the proposed S.D. 1 regarding the effect of sea level rise on the land to be leased, may be subjective and may not be the most appropriate mechanism to trigger the Legislature's involvement. Your Committee believes that this issue merits further discussion as this measure moves through the legislative process.

Your Committee further notes that the Department of Land and Natural Resources is currently under negotiations to renew the lease for Ala Wai Boat Harbor. Your Committee urges the Board of Land and Natural Resources to take into account the risks of sea level rise as part of the lease negotiations.

Accordingly, your Committee has amended this measure by adopting the proposed S.D. 1 and further amending the measure by removing language that would have required the Board of Land and Natural Resources to obtain prior authorization from the Legislature by concurrent resolution in order to lease any fast



lands and submerged lands within any existing state boating facility by public auction, request for proposals, or direct negotiation.

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. 2380, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2380, 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,




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KARL RHOADS, Chair



The Senate  
 Twenty-Ninth Legislature  
 State of Hawai'i

**Record of Votes**  
**Committee on Water and Land**  
**WTL**

Bill / Resolution No.:*	Committee Referral:	Date:		
<b>HB 2380, HD1</b>	<b>WTL, WAM</b>	<b>3/19/18</b>		
<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)				/
INOUYE, Lorraine R.				/
RIVIERE, Gil	/			
THIELEN, Laura H.	/			
<b>TOTAL</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>2</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes