

STAND. COM. REP. NO.

2745

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 2930  
S.D. 2

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

Sir:

Your Committee on Commerce, Consumer Protection, and Health,  
to which was referred S.B. No. 2930, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO UNDERGROUND STORAGE TANKS,"

begs leave to report as follows:

The purpose and intent of this measure is to protect the State's underground drinking water sources and surrounding environment by requiring the Department of Health to adopt rules for underground storage tanks, tank systems, and related piping that conform with 2015 revisions to federal regulations and include additional requirements no less stringent than any regulation established pursuant to federal law for certain field-constructed underground storage tanks, including compliance with certain requirements in chapter 11-281, Hawaii Administrative Rules, or successor rules.

Your Committee received testimony in support of this measure from the Department of the Attorney General, Board of Water Supply of the City and County of Honolulu, Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i, League of Women Voters of Hawaii, IMUAlliance, Hawaiian Civic Club of Honolulu, Environmental Caucus of the Democratic Party of Hawaii, and twenty-three individuals. Your Committee received testimony in opposition to this measure from the United States Department of the Navy, Chamber of Commerce of Hawaii, and three individuals. Your Committee received comments on this measure from the



Department of Health; Commander, United States Pacific Command; and Sierra Club.

Your Committee finds that the lands and waters of Hawaii are unique and delicately balanced resources, which are vital to the economy of the State, and that the protection of groundwater is a matter of the highest priority.

Your Committee finds that the underground storage of petroleum products and hazardous substances with potential spills, discharges, and leaks, can pose serious threats to the environment and thus to citizens of the State. Your Committee further finds that the Red Hill bulk fuel storage facility (Red Hill) stores more fuel in a single location than any other underground storage tank system in Hawaii, storing up to 187 million gallons of fuel per day.

Your Committee notes the concerns raised by the United States Department of the Navy, including that the Navy has already reached an agreement with the Environmental Protection Agency (EPA) setting a timeframe to renovate Red Hill by 2037. Your Committee notes that this measure, as drafted, includes a deadline no later than 2028.

Your Committee also finds that it is of the utmost importance to resolve the issues raised by potential leaks at Red Hill without recourse to further litigation and to conform with existing EPA agreements in order for Hawaii to maintain autonomy and control over its own environmental regulation. Your Committee finds that this is especially true in light of the lack of environmental concern at the federal regulatory level.

Your Committee also finds that the Department of Health and Department of the Attorney General are capable of completing the rulemaking contemplated by this measure by October 13, 2018, provided that the court overseeing litigation with respect to Red Hill renders a final decision in a timely fashion; your Committee notes that the final decision remains uncertain but that the substance of the court order is likely to be addressed by this measure. Your Committee finds that the October 13, 2018, deadline to adopt rules at least as stringent as existing federal regulations was imposed by the EPA and that failure to comply would affect federal approval of the State's underground storage



tank environmental regulatory program. Your Committee recognizes the imminency of the October 13, 2018, deadline and the difficulty of the rulemaking process and finds that advancing this measure is necessary to allow the State to comply with the EPA deadline and preemptively address the anticipated results of the existing litigation over Red Hill through legislation.

Your Committee has also heard concerns from the Department of Health and Department of the Attorney General that some language in section 1 of this measure may be inaccurate or imprecise. Your Committee has received proposed language from the Departments to address these issues and finds that amendments are necessary to incorporate this language into the measure.

Your Committee finds that further discussion of this measure is warranted, including with respect to the deadlines for compliance. In response to questioning by your Committee, the Department of Health and Department of the Attorney General indicated that providing a timeline of the proposed rulemaking would be feasible; your Committee urges the Departments to provide such a timeline to the Legislature as soon as possible.

Your Committee has amended this measure by:

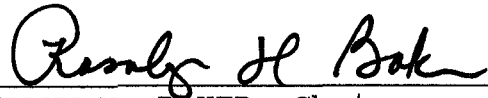
- (1) Amending section 1 to correct inaccurate information and clarify imprecise language;
- (2) Inserting blank dates for the deadlines to take out of service and to permanently close underground storage tanks and tank systems that fail to comply with new rules;
- (3) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (4) 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 Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2930, S.D. 1, as amended herein,



and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2930, S.D. 2.

Respectfully submitted on  
behalf of the members of the  
Committee on Commerce, Consumer  
Protection, and Health,




---

ROSALYN H. BAKER, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce, Consumer Protection, and Health**  
**CPH**

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 2930, SD1	AEN/PSM, CPH	2/26/18		
<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
BAKER, Rosalyn H. (C)	/			
TOKUDA, Jill N. (VC)	/			
CHANG, Stanley	/			
ESPERO, Will	/			
IHARA, Jr., Les	/			
NISHIHARA, Clarence K.	/			
RUDERMAN, Russell E.				/
<b>TOTAL</b>	6			1
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