

STAND. COM. REP. NO. 488

Honolulu, Hawaii

FEB 19 2021

RE: S.B. No. 1292
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committees on Water and Land and Agriculture and Environment, to which was referred S.B. No. 1292 entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT STATEMENTS,"

beg leave to report as follows:

The purpose and intent of this measure is to exempt the proposed drilling, construction, or use of a well on lands leased from the Department of Agriculture from the requirements of relevant environmental impact statement laws, provided that the land is being used to support agriculture and food production.

Your Committees received testimony in support of this measure from the Hawai'i Farm Bureau and one individual. Your Committees received testimony in opposition to this measure from the Office of Environmental Quality Control and Office of Hawaiian Affairs. Your Committees received comments on this measure from the Department of Agriculture, Department of Land and Natural Resources, and Commission on Water Resource Management.

Your Committees find that agricultural water is needed for uses such as irrigating crops, pasture, livestock, and processing for sale. Reported agricultural ground water use from two hundred fifty-six of the total four hundred thirty-four agricultural wells in the State is around twenty million gallons per day, as the industry transitions from large scale to smaller diversified



agriculture; that does not account for surface water use. Research shows that agricultural water use may have significant impacts on groundwater recharge and corresponding groundwater sustainable yields and setting of instream flow standards. Before drilling a well to tap into the abundant aquifer to expand food production, farmers who lease land from the Department of Agriculture must obtain an environmental impact statement (EIS). Testifiers have stated that the requirements of the EIS may delay beneficial projects until they are no longer feasible. With the coronavirus disease 2019 pandemic renewing awareness of the critical importance of food production and self-sufficiency, this measure seeks to assist farmers by providing water essential to the generation of productive agricultural lands.

Your Committees have heard the concerns of testifiers that the exemption contemplated by this measure would subvert the laws and processes in place to protect Hawaii's fragile natural and cultural resources from avoidable and unnecessary impacts despite efforts to expedite projects that promote local food sustainability and agriculture. The environmental review process outlined in chapter 343, Hawaii Revised Statutes, demonstrates the State's desire for careful planning to preserve its finite natural resources. The exemption in this measure may result in significant and adverse impacts. Pursuant to section 343-6, Hawaii Revised Statutes, and section 11-200-8(a), Hawaii Administrative Rules, the Department of Agriculture lessees enjoy an exemption from EIS requirements for the construction of "small" facilities, including for public utility services, and "minor" accessory structures, which may contain small wells. However, exemptions for proposed large well structures may fail to consider impacts to streams and springs fed by groundwater sources, adjacent native species habitat, native Hawaiian traditional and customary practices, and sites of cultural significance.

Accordingly, your Committees have amended this measure by:

- (1) Placing the exemption within chapter 343, Hawaii Revised Statutes, relating to EIS, rather than chapter 174C, Hawaii Revised Statutes, relating to the State Water Code;
- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and



- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture and Environment that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 1292, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1292, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on behalf of the members of the Committees on Water and Land and Agriculture and Environment,



MIKE GABBARD, Chair



LORRAINE R. INOUE, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 1292	Committee Referral: WTL/AEN, JDC	Date: 2-12-2021
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The Committee is reconsidering its previous decision on this measure.
 If so, then the previous decision was to: _____

The Recommendation is:
 Pass, unamended 2312
 Pass, with amendments 2311
 Hold 2310
 Recommit 2313

Members	Aye	Aye (WR)	Nay	Excused
INOUE, Lorraine R. (C)	✓			
KEITH-AGARAN, Gilbert S.C. (VC)	✓			
MISALUCHA, Bennette E.	✓			
RIVIERE, Gil		/		
FEVELLA, Kurt			✓	<i>[Signature]</i>
TOTAL	3	1	1	

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:
Bennette E. Misalucha

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*Only one measure per Record of Votes

