

STAND. COM. REP. NO.

3

Honolulu, Hawaii

FEB 04 2021

RE: S.B. No. 179

S.D. 1

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

Sir:

Your Committee on Agriculture and Environment, to which was referred S.B. No. 179 entitled:

"A BILL FOR AN ACT RELATING TO IRRIGATION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Transfer portions of the East Kauai Irrigation System operated and maintained by the East Kauai Water Users' Cooperative as of July 1, 2021, to the Department of Agriculture until the adoption of rules is complete or the Chairperson of the Board of Agriculture determines that the system can be appropriately operated and maintained pursuant to chapters 167 and 168, Hawaii Revised Statutes;
- (2) Stipulate that the East Kauai Irrigation System will not be governed by chapters 167 and 168, Hawaii Revised Statutes, until it is transferred to the appropriate program; and
- (3) Appropriate funds for the operations and maintenance of the East Kauai Irrigation System.

Your Committee received testimony in support of this measure from the Department of Agriculture; Department of Land and Natural



Resources; County of Kaua'i; SR Hawaii; Kulana Association of Unit Owners; Larry Jefts Farms, LLC; Hawai'i Farm Bureau; Ulupono Initiative; East Kauai Water Users' Cooperative; Saiva Siddhanta Church; Kalepa Koalition; and six individuals.

Your Committee finds that the East Kauai Irrigation System services more than twelve thousand five hundred acres of agricultural land on Kauai. The system includes two reservoirs and twenty-two miles of ditch and has historically serviced thousands of acres of state and private lands. In particular, the system services more than one thousand acres of the state Kalepa lands located between Kapaa and Lihue. In recent years, through the action of the Agribusiness Development Corporation, nearly three hundred acres have been leased to farmers who are actively developing crops, including ginger and sweet potatoes.

Your Committee further finds that the Department of Land and Natural Resources currently has oversight of the irrigation system and is focused on addressing public health and safety and preserving the viability of the irrigation system for future use, not the continued delivery of water to various users. Further, the Department of Land and Natural Resources does not have the resources and expertise to function as a water delivery provider, which could be inconsistent with its mission of natural, cultural, recreational, and historical resource management of protection.

Moving forward, the Department of Land Natural Resources' primary objective is to work collaboratively with Kauai legislators to find an appropriate public or private entity that can assume management and operation of the system as had previously been done by the East Kauai Water Users' Cooperative. Your Committee believes this measure satisfies that objective by ensuring the ongoing operation of the irrigation system by the Department of Agriculture in support of local agriculture. Your Committee notes that if the primary objective cannot be met, the Department of Land and Natural Resources will pursue shutdown of the irrigation system, including breaching the reservoirs, as a last resort.

Your Committee has amended this measure by:

- (1) Amending the reference date to determine the portions of the East Kauai Irrigation System being transferred to



the Department of Agriculture from portions operated and maintained by the East Kauai Water Users' Cooperative as of July 1, 2021, to as of December 14, 2020;

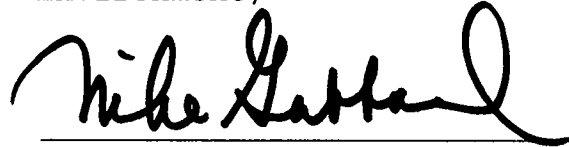
- (2) Expanding the parties that the Department of Agriculture may enter into any contracts with necessary to bill and collect any fees and to operate and maintain the system;
- (3) Replacing the provision regarding all fees collected by the East Kauai Water Users' Cooperative with all fees collected from the water users of the East Kauai Irrigation System;
- (4) Adding the condition that all fees collected shall be deposited into the State's general fund until such times that the adoption of rules pursuant to chapter 91, Hawaii Revised Statutes, is completed or until the system can be operated and maintained appropriately pursuant to chapters 167 and 168, Hawaii Revised Statutes, at which time the fees will be deposited into the appropriate fund, if applicable;
- (5) Establishing the following positions within the Department of Agriculture's Agricultural Resource Management Division contingent on the date on which the system becomes a state irrigation system pursuant to chapter 91, Hawaii Revised Statutes:
 - (A) One full-time equivalent (1.0 FTE) irrigation district manager position;
 - (B) Three full-time (3.0 FTE) irrigation system worker II positions; and
 - (C) One full-time equivalent (1.0 FTE) office assistant III position; 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 Agriculture and Environment that is attached to this report, your Committee is in accord with the intent and purpose of



S.B. No. 179, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 179, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Agriculture and
Environment,



MIKE GABBARD, Chair



