

Honolulu, Hawaii

MAR 04 2022

RE: S.B. No. 3225
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-First State Legislature
Regular Session of 2022
State of Hawaii

Sir:

Your Committees on Water and Land and Ways and Means, to which was referred S.B. No. 3225 entitled:

"A BILL FOR AN ACT RELATING TO DAM AND RESERVOIR SAFETY,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require the Board of Land and Natural Resources to prepare all studies to determine the health and safety issues of flooding to surrounding areas and safe removal or retirement of a dam or reservoir upon the request of a homeowner association or homeowner of property where a dam or reservoir is situated; and
- (2) Appropriate funds for a two-year pilot program to study dam removal in counties with a population of less than two hundred thousand people.

Prior to the hearing on this measure, your Committees posted and made available for public review a proposed S.D. 1, which deletes the contents of the measure and inserts language to:

- (1) Establish a dam and spillway improvement loan program for eligible expenses for plans, design, construction, and equipment used to improve deficient dams and



spillways as determined by the Department of Land and Natural Resources;

- (2) Establish a dam and spillway improvement revolving fund for deposit of proceeds from the dam and spillway improvement loan program;
- (3) Establish a dam and spillway improvement grant program to provide private dam owners with funds for plans, design, construction, and equipment used to improve deficient dams and spillways as determined by the Department of Land and Natural Resources; and
- (4) Establish a dam and spillway improvement tax credit for qualifying expenditures for the improvement of deficient dams and spillways.

Your Committees received testimony in support of the proposed S.D. 1 from the Department of Land and Natural Resources. Your Committees received comments on the proposed S.D. 1 from the Department of the Attorney General and Tax Foundation of Hawaii.

Your Committees find that some plantation era reservoirs across the State, including locations on Maui County, are on lands sold by plantation landowners to developers. Following the sale, developers constructed subdivisions, often including dams and reservoirs within deeds to the homeowners or a homeowner's association. Some dams and spillways located on private subdivisions are not properly maintained, leading to significant risks from flooding during extreme weather. As costly permits are required to conduct repairs or removal of dams, many dams remain in unsafe, deficient states.

Your Committees have heard the concerns of the Department of Land and Natural Resources and the Department of the Attorney General that the proposed S.D. 1, as drafted, would not specify eligible dams, grant eligibility requirements, and appropriate funds and positions needed to administer the proposed dam and spillway improvement grant and loan programs. According to the Department of Land and Natural Resources, dams provide many beneficial uses, and approximately ninety-three dams out of one hundred twenty-seven dams regulated by the Department of Land and Natural Resources are fully or partly privately owned. To



incentivize private dam owners to maintain their dam's beneficial use, the Department of Land and Natural Resources would need initial assistance and clarification on program terms to effectively offer its support to address ongoing issues from deficient dams and spillways. Amendments are therefore necessary to address the concerns raised by the Department of Land and Natural Resources and the Department of the Attorney General to strengthen the dam and spillway improvement grant and loan programs.

Your Committees have amended this measure by adopting the proposed S.D. 1 and further amending the measure by:

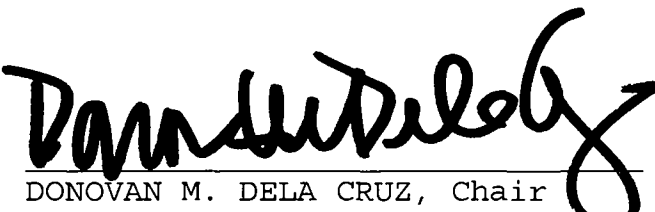
- (1) Clarifying that deficient high hazard and significant high hazard dams and spillways shall be eligible under the dam and spillway improvement loan program;
- (2) Deleting the proposed requirement that all dam and spillway owners participating in the dam and spillway loan program to be licensed to conduct business in the State;
- (3) Requiring that all loans approved under the dam and spillway improvement loan program shall be subject to conditions imposed by the Board of Land and Natural Resources;
- (4) Including loan moneys as a permitted expenditure under the dam and spillway improvement revolving fund;
- (5) Deleting the requirement that private dam and spillway owners must be licensed to conduct business in the State to receive grants awarded by the Department of Land and Natural Resources;
- (6) Requiring that all grants approved under the dam and spillway improvement grant program shall be subject to conditions imposed by the Board of Land and Natural Resources;
- (7) Specifying eligibility requirements for the dam and spillway improvement grant program;



- (8) Inserting a blank appropriation amount to:
- (A) Provide one-time seed funding for the initial administration of the dam and spillway improvement loan and grant program; and
 - (B) Establish three new positions in the Department of Land and Natural Resources, which include a planner, business loan officer, and accountant;
- (9) Amending section 1 to reflect its amended purpose;
- (10) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (11) 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 Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 3225, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 3225, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Ways and Means,

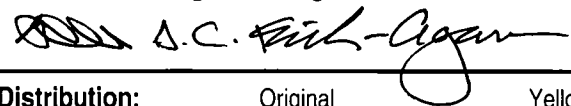

DONOVAN M. DELA CRUZ, Chair


LORRAINE R. INOUYE, Chair



The Senate
 Thirty-First Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 3225	Committee Referral: WTL/WAM	Date: 3/3/22		
<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
INOUYE, Lorraine R. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
MISALUCHA, Bennette E.	X			
RIVIERE, Gil	X			
FEVELLA, Kurt				X
TOTAL	4			1
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

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

Members	Aye	Aye (WR)	Nay	Excused
DELA CRUZ, Donovan M. (C)	X			
KEITH-AGARAN, Gilbert S.C. (VC)	X			
INOUYE, Lorraine R.	X			
KANUHA, Dru Mamo	X			
KIDANI, Michelle N.	X			
MISALUCHA, Bennette E.	X			
MORIWAKI, Sharon Y.	X			
SHIMABUKURO, Maile S.L.				X
TANIGUCHI, Brian T.				X
WAKAI, Glenn	X			.
FEVELLA, Kurt				X
TOTAL	8			3

Recommendation: Adopted Not Adopted

Chair's or Designee's Signature:


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