

STAND. COM. REP. NO. **518**

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 300
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Water and Land, to which was referred S.B. No. 300 entitled:

"A BILL FOR AN ACT RELATING TO THE EXPENDITURE OF PUBLIC FUNDS FOR LAND IMPROVEMENTS,"

begs leave to report as follows:

The purpose and intent of this measure is to prohibit the expenditure of public moneys for any land improvement if the land is not owned or leased by the State, unless the funds are appropriated by the Legislature or the Legislature approves the expenditure by concurrent resolution.

Your Committee received testimony in support of this measure from one individual. Your Committee received testimony in opposition to this measure from the Department of Land and Natural Resources. Your Committee received comments on this measure from the Department of Budget and Finance and Department of the Attorney General.

Your Committee finds that it is generally good government practice to avoid appropriating state funds for the improvement of private property, although at times, doing so can in fact serve a public purpose. The funds of the State belong to the public fisc and are entrusted for the benefit of all the people of the State. Article VII, section 4, of the Hawaii State Constitution provides, "No tax shall be levied or appropriation of public money or



property made, nor shall the public credit be used, directly or indirectly, except for a public purpose". It is generally for the Legislature to decide what constitutes a "public purpose". Therefore, this measure prohibits the expenditure of public funds for any land improvement if the land is not owned or leased by the State, unless the funds are appropriated by the Legislature or the Legislature approves the expenditure by concurrent resolution.

Your Committee has heard the testimony of the Department of the Attorney General, expressing concern that a concurrent resolution cannot fulfill the appropriation requirement of article VII, section 5, of the Hawaii State Constitution, which provides, "No public money shall be expended except pursuant to appropriations made by law". The Department testified that a concurrent resolution merely expresses the sentiment of the Legislature, and does not have the force and effect of law.

Therefore, your Committee has amended this measure by:

- (1) Deleting language that would have allowed the Legislature to approve the expenditure of public moneys for certain land improvements via concurrent resolution;
- (2) Requiring that the Legislature also make a declaration of public purpose regarding any appropriation of the public moneys that are used to improve private lands;
- (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 Water and Land that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 300, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 300, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.




Respectfully submitted on
behalf of the members of the
Committee on Water and Land,


LORRAINE R. INOUYE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB 300	WTL, WAM/JDC	02 /15/23		
<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)	✓			
ELEFANTE, Brandon J.C. (VC)	✓			
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.	✓			
FEVELLA, Kurt	✓			
TOTAL	5	ϕ	ϕ	ϕ
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