

Honolulu, Hawaii

April 26, 2007

RE: H.B. No. 1608  
S.D. 3  
C.D. 1

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fourth State Legislature  
Regular Session of 2007  
State of Hawaii

Sir and Madam:

Your Committee on Conference on the disagreeing vote of the House of Representatives to the amendments proposed by the Senate in H.B. No. 1608, S.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO TRANSPORTATION,"

having met, and after full and free discussion, has agreed to recommend and does recommend to the respective Houses the final passage of this bill in an amended form.

The purpose of this bill is to protect public health and safety during traffic emergencies by allowing for the establishment of traffic emergency zones to provide access to an affected area. Among other things, this measure:

- (1) Provides the Governor or state director of transportation in the case of a state highway, or a mayor or county director of transportation in the case of a county highway, with emergency powers to protect public health and safety in cases of highway closures;
- (2) Exempts state or county highway or street improvements from certain county permitting and approval processes and



SA

from the state procurement code when an area has been designated a traffic emergency zone;

- (3) Allows for the acquisition of cane haul roads by the state or county department of transportation for designation as state or county highways for a temporary period of time;
- (4) Provides a qualified immunity for government for a claim for negligence in the design, construction, repair, and correction of work performed; and
- (5) Indemnifies the owner of a cane haul road from any liability that may arise out of the use of such cane haul road when designated as a state highway.

Many communities throughout the state, especially those with limited highway access, are often affected when a major accident or natural disaster occurs. Some communities have faced hours of isolation in such instances. Allowing traffic emergency zones to be established will aid the State Department of Transportation and county departments of transportation in providing quicker access to areas affected by the closure of the only means of travel into or out of a community.

Your Committee on Conference notes that the qualified standard of care under the emergency doctrine is intended to ensure that negligence claims take into consideration the relevant facts and circumstances of the emergency situation when evaluating the reasonableness of actions or omissions, including the time constraints and seriousness of the emergency. Greater latitude should be given when time is short and potential consequences are catastrophic, such as the need to quickly evacuate people in the face of a tsunami. On the other hand, greater care should be taken where time constraints or consequences are less severe. Consideration should also be given to the time available for reasonable actions in advance of expected emergencies or the time available if the emergency access is to continue over an extended period.

Your Committee on Conference has amended this measure by:

- (1) Clarifying that designation of a traffic emergency zone can occur when substantial endangerment to public health and safety is or is highly likely to be caused by the temporary closure of, or lack of adequate access to an area, by a county highway or state highway; and



- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the managers of your Committee on Conference that is attached to this report, your Committee on Conference is in accord with the intent and purpose of H.B. No. 1608, S.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1608, S.D. 3, C.D. 1.

Respectfully submitted on behalf  
of the managers:

ON THE PART OF THE SENATE

ON THE PART OF THE HOUSE

*J. Kalani English*

J. KALANI ENGLISH, Chair

*Clayton Hee*

CLAYTON HEE, Co-Chair

*Joseph M. Souki*

JOSEPH M. SOUKI, Co-Chair

*Cindy Evans*

CINDY EVANS, Co-Chair

*Blake K. Oshiro*

BLAKE K. OSHIRO, Co-Chair



# Hawaii State Legislature

CCR 59

## Record of Votes of a Conference Committee

Bill / Concurrent Resolution No.: HB 1608, SD 3	Date/Time: 4/23/07 @ 2pm
--	-----------------------------

☒ The recommendation of the House and Senate managers is to pass with amendments (CD).

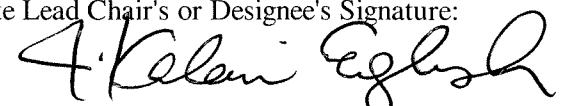
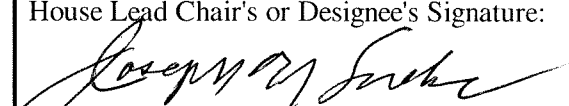
☐ The Committee is reconsidering its previous decision.

☐ The recommendation of the Senate Manager(s) is to AGREE to the House amendments made to the Senate Measure

☒ The recommendation of the House Manager(s) is to AGREE to the Senate amendments made to the House Measure.

Senate Managers	A	WR	N	E	House Managers	A	WR	N	E
ENGLISH, J. Kalani, Chr.	✓				SOUKI, Joseph M., Co-Chr.	✓			
HEE, Clayton, Co-Chr.	✓				EVANS, Cindy, Co-Chr.				✓
GABBARD, Mike	✓				OSHIRO, Blake K., Co-Chr.	✓			
					MCKELVEY, Angus L.K.	✓			
					PINE, Kymberly Marcos	✓			
TOTAL	3				TOTAL	4			1

A = Aye      WR = Aye with Reservations      N = Nay      E = Excused

Senate Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted	House Recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted
Senate Lead Chair's or Designee's Signature: 	House Lead Chair's or Designee's Signature: 
<b>Distribution:</b> Original      File with Conference Committee Report	Yellow      House Clerk's Office      Pink      Senate Clerk's Office      Goldenrod      Drafting Agency