STAND. COM. REP. NO. 96

Honolulu, Hawaii FEB 1 8 2009

RE: S.B. No. 1088 S.D. 1

Honorable Colleen Hanabusa President of the Senate Twenty-Fifth State Legislature Regular Session of 2009 State of Hawaii

Madam:

Your Committee on Water, Land, Agriculture, and Hawaiian Affairs, to which was referred S.B. No. 1088 entitled:

"A BILL FOR AN ACT RELATING TO PUBLIC ACCESS,"

begs leave to report as follows:

The purpose of this measure is to further protect residents from obstruction of public access and to create a private right of action to enforce public access in the courts.

Testimony in support of this measure was submitted by two organizations and one hundred and twenty-four public citizens. One state agency submitted comments, and one state agency submitted testimony in opposition. Copies of written testimony are available for review on the Legislature's website.

Your Committee finds that, although public access is protected by state law, development pressure is making it difficult for residents to access beach and shoreline areas. On O'ahu, insufficient public access to the shore has prompted multiple studies by State agencies to address conflicts developing between beachfront property owners and the general public. Similarly on Maui, coastline development plans have raised the issue of adequate public access to the beach from Paia through Baldwin beaches. On Kaua'i, public access routes have not been claimed by either the State or the County and are obstructed, preventing public access to the shoreline.



STAND. COM. REP. NO. 96 Page 2

Your Committee further finds that providing a private right of action to enforce public access will allow communities to enforce laws when the agencies responsible lack necessary resources or are unresponsive. This measure ensures needless litigation does not occur by requiring that notice and opportunity to cure the violation are given to the violator prior to the filing of a lawsuit.

Your Committee has amended this measure by making technical, nonsubstantive changes for clarity.

As affirmed by the record of votes of the members of your Committee on Water, Land, Agriculture, and Hawaiian Affairs that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1088, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1088, S.D. 1, and be referred to the Committee on Judiciary and Government Operations.

> Respectfully submitted on behalf of the members of the Committee on Water, Land, Agriculture, and Hawaiian Affairs,

CLAYTON HEE, Chair



## The Senate Twenty-Fifth Legislature State of Hawaii

## Record of Votes Committee on Water, Land, Agriculture and Hawaiian Affairs WTL

Bill / Resolution No.:*	Committe	e Referral: 5 GO	Da	ate: 2/11/09	
The committee is reconsidering its previous decision on this measure.					
If so, then the previous decision was to:					
The Recommendation is:					
Pass, unamended A Pass, with amendments Hold Recommit 2312 2311 2310 2313					
Members		Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	· · · ·				
TOKUDA, Jill N. (VC)					
BUNDA, Robert					
FUKUNAGA, Carol		$\vee$			
KOKUBUN, Russell S.					Manufacture and a community and
TAKAMINE, Dwight Y.					V
HEMMINGS, Fred					
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TOTAL		3	9	9	2
Recommendation: Adopted Not Adopted					
Chair's or Designee's Signature:					
Distribution: Original V Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy					

## \*Only one measure per Record of Votes