STAND. COM. REP. NO. 11/2

Honolulu, Hawaii

# FEB 1 1 2013

#### S.B. No. 5 RE:

Honorable Donna Mercado Kim President of the Senate Twenty-Seventh State Legislature Regular Session of 2013 State of Hawaii

Madam:

Your Committees on Water and Land and Agriculture, to which was referred S.B. No. 5 entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to provide fair compensation to lessees when a withdrawal or taking of leased land renders the land unusable for the lessees' original intended purposes.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources, Ulupono Initiative, Local Foods Coalition, and Hawaii Farm Bureau Federation.

Your Committees find that the Department of Land and Natural Resources established conservation easements on approximately six thousand acres of lands, originally leased for pasture or special livestock use, in order to widen Saddle Road in the County of Hawaii. As a result, the lessee ranchers were prevented from grazing cattle and effectively deprived of their use of the land.

Although the Department reduced the lease rent in proportion to the taking of the land, the lessees received no other compensation. Existing law provides no other method of compensation. However, the lessees are still required by their leases to maintain insurance on the land and pay taxes for the land they cannot use for the specific purpose for which it was originally leased. As a result, several lessees reduced their

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herd and have been unable to mitigate the long-term, fixed costs associated with operating a ranch in the way they anticipated when the lease was negotiated. Thus, the lessees have experienced financial hardship for an extended period of time that is not sufficiently mitigated by a reduction in their lease rent.

S.B. No. 2951, S.D. 2, H.D. 2, C.D. 1, Regular Session of 2010, attempted to address this issue by providing fair compensation when leased public land for agricultural or pastoral uses is withdrawn, condemned, or taken for public purposes. Although this measure passed the Legislature, it was vetoed by the Governor on the grounds that the bill "disproportionately and inappropriately compensates these lessees of public lands above other lessees of State lands."

Your Committees believe that rent reduction is insufficient, especially if the lessor fails to recognize that the law is designed to take into account a lessee's original intended purpose for leasing the land. This measure is necessary to provide more equitable relief to lessees of public lands in partial takings or condemnations where the lessee is prevented from using the lands as originally intended.

As affirmed by the records of votes of the members of your Committees on Water and Land and Agriculture that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 5 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

> Respectfully submitted on behalf of the members of the Committees on Water and Land and Agriculture,

Clarence 11 C

CLARENCE K. NISHIHARA, Chair

MALAMA SOLOMON, Cha

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### The Senate Twenty-Seventh Legislature State of Hawai'i

## Record of Votes Committee on Water and Land WTL

Bill / Resolution No.:*	Committee	Committee Referral:			Date:				
SB 5	WTL/AG	WTL/AGL, WAM			215/13				
The committee is reconsidering its previous decision on this measure.									
If so, then the previous decision was to:									
The Recommendation is:									
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313									
Members		Aye	Aye (W	R) Nay	Excused				
SOLOMON, Malama (C)									
SHIMABUKURO, Maile S.L. (VC)		1							
DELA CRUZ, Donovan M.									
IHARA, Jr., Les									
RUDERMAN, Russell E.					<u> </u>				
THIELEN, Laura H.									
SLOM, Sam									
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TOTAL	· · · · · · · · · · · · · · · · · · ·	5			#2 ×				
Recommendation: Adopted 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 <u>one</u> measure per Record of Votes

#### The Senate Twenty-Seventh Legislature State of Hawai'i

## Record of Votes Committee on Agriculture AGL

Bill / Resolution No.:*	Committee Referral:			Date:					
SB5	WTL/AGL, WAM			2/5/13					
The committee is reconsidering its previous decision on this measure.									
If so, then the previous decision was to:									
The Recommendation is:									
Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313									
Members		Aye	Aye (W	/R)	Nay	Excused			
NISHIHARA, Clarence K. (C)									
KOUCHI, Ronald D. (VC)									
DELA CRUZ, Donovan M.									
ENGLISH, J. Kalani									
THIELEN, Laura H.									
WAKAI, Glenn									
SLOM, Sam									
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TOTAL		0				(			
Recommendation:									
Chair's or Designee's Signature:									
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