STAND. COM. REP. NO.

1186

Honolulu, Hawaii

APR 0 1 2013

RE: S.C.R. No. 168 S.D. 1

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 Judiciary and Labor, to which was referred S.C.R. No. 168 entitled:

"SENATE CONCURRENT RESOLUTION URGING THE DEPARTMENT OF LAND AND NATURAL RESOURCES, IN CONSULTATION WITH THE DEPARTMENT OF THE ATTORNEY GENERAL, TO EXPLORE FEASIBLE OPTIONS RELATING TO LIABILITY FOR INJURY OR DAMAGE SUSTAINED WHILE MOUNTAIN CLIMBING, ROCK CLIMBING, RAPPELLING, AND BOULDERING ON PUBLIC LAND,"

beg leave to report as follows:

The purpose and intent of this measure is to urge the Department of Land and Natural Resources, in consultation with the Department of the Attorney General, to explore feasible options relating to liability for injury or damage sustained while mountain climbing, rock climbing, rappelling, and bouldering on public land.

Your Committees received testimony in support of this measure from the Department of Land and Natural Resources. Your . Committees received comments on this measure from the Hawaii Association for Justice.

Your Committees find that there is an increasing trend in public recreation throughout the United States and Hawaii to pursue the activities of bouldering, rock climbing, mountain climbing, rappelling, and related activities that require special skills and equipment and specific geologic features with unique qualities. These climbing areas are often in remote areas,

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sometimes only accessible through private property. It would not be possible, feasible, or desirable for the State to erect fences, post signs, or limit access to all of the potential remote and unmanaged areas that members of the public may use to engage in climbing activities.

Your Committees further find that because of the dangers inherent in climbing activities, injuries and accidents are inevitable, and the State will continually be open to lawsuits. The preferred action is not to close off sites, prohibit access, or impose fines when the public access a prohibited area; however, there may not be much choice if the State can be sued for every injury that occurs as a result of these climbing activities.

Your Committees have amended this measure by inserting language to urge the Department of Land and Natural Resources, in consultation with the Department of the Attorney General, to examine the possibility of requiring those engaging in mountain climbing, rock climbing, rappelling, and bouldering to obtain insurance through a rock climbing organization to protect the State from liability.

As affirmed by the records of votes of the members of your Committees on Water and Land and Judiciary and Labor that are attached to this report, your Committees concur with the intent and purpose of S.C.R. No. 168, as amended herein, and recommend that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 168, S.D. 1.

Respectfully submitted on behalf of the members of the Committees on Water and Land and Judiciary and Labor,

CLAYTON HEE, Chair

MALAMA SOLOMON,

### The Senate Twenty-Seventh Legislature State of Hawaiʻi

## Record of Votes Committee on Water and Land WTL

Bill / Resolution No.:* Committee Referral: Date:								
SCR 168 WTL/JDL, WAM 3/28/13								
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 (WR)	Nay	Excused				
SOLOMON, Malama (C)								
SHIMABUKURO, Maile S.L. (VC)	V							
DELA CRUZ, Donovan M.				V				
IHARA, Jr., Les								
RUDERMAN, Russell E.								
THIELEN, Laura H.	V							
SLOM, Sam	V							
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TOTAL	•		<u> </u>	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								

<sup>\*</sup>Only one measure per Record of Votes

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

# Record of Votes Committee on Judiciary and Labor JDL

Bill / Resolution No.:*	J.	Committee Referral: Date: /					
SCR 168	WTL/JDL, WAM 3/28/13						
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 (WR)	Nay	Excused		
HEE, Clayton (C)		/					
SHIMABUKURO, Maile S.L. (VC)		/					
GABBARD, Mike		V					
IHARA, Jr., Les							
SLOM, Sam							
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TOTAL	<u> </u>			<u>-</u>			
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							

<sup>\*</sup>Only one measure per Record of Votes