

STAND. COM. REP. NO. **3251**

Honolulu, Hawaii

MAR 3 1 2016

RE: S.R. No. 27
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committees on Water, Land, and Agriculture and Economic Development, Environment, and Technology, to which was referred S.R. No. 27 entitled:

"SENATE RESOLUTION URGING IMMEDIATE ENFORCEMENT OF THE PROHIBITION ON COMMERCIAL ACTIVITY UNDER THE 1965 SURFRIDER-ROYAL HAWAIIAN SECTOR BEACH AGREEMENT, AN EXPLANATION OF IMPLICATIONS OF A CERTAIN PRE-SETTING PROPOSAL, AND PREPARATION OF AN ENVIRONMENTAL ASSESSMENT,"

beg leave to report as follows:

The purpose and intent of this measure is to urge immediate enforcement of the prohibition of commercial activity under the 1965 SurfRider-Royal Hawaiian Sector Beach Agreement, an explanation of implications of a certain pre-setting proposal, and preparation of an environmental assessment.

Your Committees received testimony in support of this measure from Ho'omana Pono, LLC; and six individuals. Your Committees received testimony in opposition to this measure from the Department of Land and Natural Resources, Waikiki Beach Special Improvement District Association, Land Use Research Foundation of Hawaii, and Outrigger Enterprises Group.

Your Committees find that user conflicts regarding commercial activity on Waikiki Beach have existed for years. The 1965 SurfRider-Royal Hawaiian Sector Beach Agreement established private property owned by the Royal Hawaiian, Outrigger, and Moana Surfrider hotels that is subject to a public easement over Waikiki



Beach. The 1965 agreement also prohibits commercial activities within the public easement. As directed by Act 145, Session Laws of Hawaii 2014, the Department of Land and Natural Resources chose to form a working group to identify and implement management strategies for the resolution of user conflicts involving the pre-setting of beach chairs and umbrellas in the SurfRider-Royal Hawaiian Sector of Waikiki Beach. All parties agree that pre-setting is a commercial activity and therefore not permitted within the public easement; however, there is disagreement with regard to the definition of "pre-setting", which is not defined in statute, rules, or the 1965 agreement. The working group is forming a definition of "pre-setting".

Your Committees further find that because the Department of Land and Natural Resources seems to be making progress on this issue, immediate enforcement of the 1965 agreement, a memorandum from the Attorney General, and an environmental assessment regarding the SurfRider-Royal Hawaiian Sector are not necessary at this time; however, your Committees find that the Legislature should be informed as to the progress of the Department and the working group.

Your Committees have therefore amended this measure by:

- (1) Requesting that the Department of Land and Natural Resources submit a report on its progress regarding the resolution of conflicts under the prohibition of commercial activity under the 1965 SurfRider-Royal Hawaiian Sector Beach Agreement, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2017 and Regular Session of 2018, rather than urging immediate enforcement of the 1965 agreement;
- (2) Deleting language that would have requested the Attorney General to provide a memorandum regarding the working group's pre-setting proposal and jointly report with the Department of Land and Natural Resources on state actions to enforce the 1965 agreement;
- (3) Deleting language that would have requested the Department of Land and Natural Resources to prepare an environmental assessment;
- (4) Deleting potentially inaccurate statements;



- (5) Inserting language to describe the history and progress of the working group;
- (6) Amending the title to reflect its amended purpose; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water, Land, and Agriculture and Economic Development, Environment, and Technology that are attached to this report, your Committees concur with the intent and purpose of S.R. No. 27, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 27, S.D. 1.

Respectfully submitted on
behalf of the members of the
Committees on Water, Land, and
Agriculture and Economic
Development, Environment, and
Technology,



GLENN WAKAI, Chair



MIKE GABBARD, Chair



The Senate
Twenty-Eighth Legislature
State of Hawai'i

Record of Votes
Committee on Water, Land, and Agriculture
WLA

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SR 27</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">WLA/EET</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">3-28-16</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div><input type="checkbox"/> Pass, unamended 2312</div> <div><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div><input type="checkbox"/> Hold 2310</div> <div><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
GABBARD, Mike (C)	/			
NISHIHARA, Clarence K. (VC)	/			
DELA CRUZ, Donovan M.				/
RIVIERE, Gil	/			
RUDERMAN, Russell E.	/			
SHIMABUKURO, Maile S.L.				/
THIELEN, Laura H.				/
WAKAI, Glenn	/			
SLOM, Sam	/			
TOTAL	6			3
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted </div>				
Chair's or Designee's Signature: <div style="font-size: 1.2em; font-family: cursive; margin-top: 5px;">Clarence K. Nishihara</div>				
Distribution: <div style="display: flex; justify-content: space-between; font-size: 0.8em; margin-top: 5px;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

*Only one measure per Record of Votes

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Twenty-Eighth Legislature
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EET

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Members	Aye	Aye (WR)	Nay	Excused
WAKAI, Glenn (C)	X			
SLOM, Sam (VC)	X			
BAKER, Rosalyn H.	X			
ESPERO, Will	X			
GALUTERIA, Brickwood	X			
IHARA, Jr., Les	X			
KEITH-AGARAN, Gilbert S.C.				X
RUDERMAN, Russell E.	X			
THIELEN, Laura H.				X
TOTAL	7	0	0	2
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				

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