

STAND. COM. REP. NO.

2658

Honolulu, Hawaii

FEB 13 2020

RE: S.B. No. 2935
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2020
State of Hawaii

Sir:

Your Committees on Agriculture and Environment and Water and Land, to which was referred S.B. No. 2935 entitled:

"A BILL FOR AN ACT RELATING TO AQUATIC BIOSECURITY,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the Department of Land and Natural Resources to co-enforce, with the United States Coast Guard, rules, standards, and requirements related to ballast-water, vessel biofouling, vessel hull in-water cleaning, and any other incidental discharges that may pose a risk for the introduction and spread of non-native aquatic organisms, adopted by the United States Coast Guard and the Environmental Protection Agency pursuant to the Vessel Incidental Discharge Act of 2018, and to set and enforce state standards and regulations for incidental discharges for vessel types where not preempted by the Vessel Incidental Discharge Act of 2018; and
- (2) Appropriate funds to support staff and operational costs associated with aquatic biosecurity inspection, investigation, monitoring, management, compliance, and enforcement.



Your Committees received testimony in support of this measure from the Department of Land and Natural Resources, Big Island Invasive Species Committee, Coordinating Group on Alien Pest Species, and two individuals. Your Committees received comments on this measure from the Department of Transportation, Matson, Ocean Tourism Coalition.

Your Committees find that the introduction and spread of alien aquatic organisms poses an unprecedented threat to Hawaii's marine, estuarine, and freshwater ecosystems, maritime and recreational activities, and economy. It is imperative that the State assess and manage the pathways of introduction and spread to combat the introduction and spread of alien aquatic organisms. Such pathways include the release of unmanaged or improperly managed ballast water, the spawning or budding of species carried to state waters as vessel biofouling, or the cleaning of fouling organisms from vessel hulls where they may then become established, the arrival of species carried on marine debris that washes ashore, and the escape or release of species from aquaculture, scientific research, and the aquarium trade or hobbyists.

Your Committees note the concerns of the Department of Land and Natural Resources (DLNR) that this measure as drafted would allow the DLNR to adopt federal regulations without the notice and public comment process of chapter 91, Hawaii Revised Statutes. The DLNR has submitted potential amendments to this measure as a compromise with the Department of Transportation, Harbors Division and to address concerns of the shipping industry. Your Committees find that adoption of these amendments is necessary to ensure state waters are protected from alien aquatic organisms without sacrificing agency transparency.

Your Committees have amended this measure by:

- (1) Deleting language that would have:
 - (A) Required the DLNR to develop preventative measures and best management practices that will reduce risks of alien species being introduced;
 - (B) Allowed the Governor to enter an agreement with the Secretary of the department in which the United



States Coast Guard is operating to enforce section 312(k) of the Federal Water Pollution Act (33 U.S.C. 1322); and

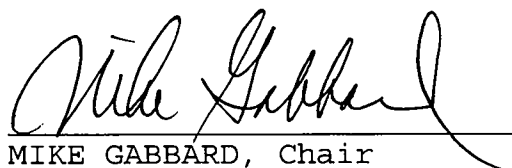
- (C) Deemed any regulation, standard, or requirement to be a rule, standard, or requirement adopted by the DLNR during any period when certain federal regulations established by the United States Coast Guard or the Environmental Protection Agency are in effect, and exempting rules adopted by DLNR to be exempt from the public notice and public hearing requirements of chapter 91, Hawaii Revised Statutes;
- (2) Clarifying that the appropriation is authorized for positions to support the prevention, detection, and management of aquatic alien and invasive species associated with ballast water and vessel biofouling pathways from all vessel types;
- (3) Amending section 1 to reflect its amended purpose;
- (4) Deleting the savings clause; and
- (5) 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 Agriculture and Environment and Water and Land that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 2935, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2935, S.D. 1, and be referred to your Committee on Ways and Means.

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



KAIULANI KAHELE, Chair



MIKE GABBARD, Chair



