

STAND. COM. REP. NO.

1043

Honolulu, Hawaii

FEB 28 2025

RE: S.B. No. 1074

S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.
No. 1074, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO ENVIRONMENTAL IMPACT
STATEMENTS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow a previously authorized or permitted commercial activity or operations to continue operation while the appropriate agency determines whether the activity or operation is subject to or exempt from the environmental review process when challenged; and
- (2) Allow a person with oversight of a previously authorized or permitted commercial activity to renew the appropriate permits while under the environmental review process.

Your Committee received testimony in support of this measure from the Department of Land and Natural Resources; Office of Planning and Sustainable Development; Island Dream Productions; Teralani Sailing Adventures; Maui Hotel and Lodging Association; Native Hawaiian Gathering Rights Association; Sea Sports Distributors; Hawaii Seafood Council; Critical Ocean Rescue Education Hawai'i; Ocean Tourism Coalition; Maui Snorkel Tours;



Kihei SCUBA Services LLC; Kaanapali Golf Courses; Valley Isle Excursions; Hula Girl Sailing and Snorkeling Boat; Holo Holo Charters, Inc.; Quicksilver Charters; Maui Chamber of Commerce; Calypso Charters; 3two3 Promotions; Salty Dog Sailing; Wake Maui LLC; Trilogy Excursions; UFO Chuting of Hawaii, Inc; Central Pacific Marine and Supply; Maui Brewing Co; Kaanapali Kai Charters; Three's Bar and Grill; Custom Metal Creations; Tech Partners Hawaii Inc.; Hawaii Longline Association; Activities and Attractions Association of Hawaii; Meili Vodka; Rigging Hawaii LLC; Kaanapali Beach Resort Association; Maui Catamaran LLC; Island Scuba Inc.; Sailing Maui Inc.; Kauai Sea Tours; King Screen Printing; Captain Andy's Sailing; Blue Planet Pro; AAMP Agency; Cafe Jai, LLC; Outrigger Hospitality Group; Exclusive Limo Maui; Fun Charters Inc; Sail Maui; Sailing Shipp's Ltd; The Ritz-Carlton Maui, Kapalua; Fork and Salad; and numerous individuals.

Your Committee received testimony in opposition to this measure from the Office of Hawaiian Affairs; Sierra Club of Hawai'i; Environmental Caucus of the Democratic Party of Hawai'i; Ko'olaupoko Hawaiian Civic Club; Kanaeokana, Kula Hawai'i Network; Manta Enterprise; Gemini Charters; Snorkel Bob's Hawaii; Exclusive Limousine and Transportation Services; Conservation Council for Hawai'i; Friends of Hanauma Bay; Ko'olau Foundation; Pō'ai Wai Ola; Shark Stewards; Moana Ohana; Hawaii Island Aha Moku; Nā Kia'i Kai; Hawai'i Reef and Ocean Coalition; Hui Maka'ainana o Makana; Na Kia'i o Wai Ha; Environmental Justice Club of the University of Hawaii at Manoa; He'eia National Estuary Research Reserve; Green Party of Hawai'i; Surfrider Foundation Hawai'i Region; Free Access Coalition; Kua'āina Ulu 'Auamo; For the Fishes; Surfrider Foundation Kauai Chapter; Kauhakō 'Ohana Association; Kupuna for the Moopuna; League of Women Voters of Hawaii; Makahanaloa Fishing Association; Center for Biological Diversity; Ko'olauloa Hawaiian Civic Club; Recycle Hawaii; Kihei Community Association; Native Hawaiian Legal Corporation; Earthjustice; Sierra Club Maui Group; 'Ilio'ulaokalani Coalition; Na Papa'i Wawae 'Ula'ula; Hawaii's Thousand Friends; Animal Rights Hawai'i; Northwestern Hawaiian Islands Hui; Pua Ali'i 'Ilima; Malu 'Aina; and numerous individuals.

Your Committee received comments on this measure from three individuals.



Your Committee finds that recent court decisions have resulted in long-standing commercial operations in the State being forced to cease operation despite their extensive, documented compliance with regulatory requirements, as these entities are now subject to the environmental review process following adjudication on the matter. Including these long-permitted commercial activities in the category of actions subject to the environmental impact assessment process was not the intent of the State. This measure will address this issue by allowing certain previously authorized or permitted activities and operations to continue running while the appropriate agency assesses whether environmental review is required, and by allowing these activities and operations to renew the appropriate permits while they are under the environmental review process.

Your Committee has amended this measure by:

- (1) Deleting language that would have allowed an activity or operation previously undertaken by a commercial entity that is challenged to continue while the agency determines whether the activity or operation is subject to or exempt from the environmental review process;
- (2) Specifying that a previously authorized or permitted commercial activity or operation is allowed to continue operation when challenged for a period of one year; provided that the activity or operation may continue for an extended period at the discretion of the court;
- (3) Defining "previously permitted or authorized" to mean permitted or authorized at the time of the challenge;
- (4) Amending section 1 to reflect its amended purpose; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1074, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1074, S.D. 2.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

A handwritten signature in black ink, appearing to read "Karl Rhoads". The signature is written in a cursive, somewhat stylized font.

KARL RHOADS, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 1074, SD1	Committee Referral: WTLIEN, JDC	Date: 2/26/25		
<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 style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
GABBARD, Mike (VC)		✓		
CHANG, Stanley	✓			
SAN BUENAVENTURA, Joy A.	✓			
AWA, Brenton				1
TOTAL	3	1	—	1 1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
<div style="display: flex; justify-content: space-between; font-size: small;"> Distribution: Original File with Committee Report Yellow Clerk's Office Pink Drafting Agency Goldenrod Committee File Copy </div>				

*Only one measure per Record of Votes