

Judge to be asked to let ship sail ferry

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HONOLULU (AP) – Attorneys for the state plan to ask a Maui judge Monday to lift his order barring the Hawaii Superferry from operating, which would clear the way for the interisland service to start later this month.

Gov. Linda Lingle said she is working this weekend to create conditions under which the Superferry can sail, and she may sign the bill designed to put it back at sea by Monday.

The new law allows the Superferry to make daily trips from Oahu to Maui and Kauai without having to wait for months or years while an environmental study is completed.

The law was passed by the Legislature last week to override decisions by the Hawaii Supreme Court and 2nd Circuit Court Judge Joseph Cardoza that said the study had to be done first.

"I would assume that the judge would probably lift the injunction," said Senate President Colleen Hanabusa, an attorney. "At the same time, I would also assume that plaintiffs' attorneys are going to challenge the constitutionality of the bill."

Environmentalists who sued to block the ferry service will fight to keep Cardoza's order in place if they decide Lingle's operating conditions aren't strong enough, said Ron Sturtz, president emeritus of Maui Tomorrow, one of the groups that filed the lawsuit.

"She has an opportunity to make some meaningful mitigation here," Sturtz said. "If she does that, then we will have to carefully look at what those are and see if we're going to live with them or not."

The bill requires Lingle to impose restrictions in nine possible areas including marine life, water quality, traffic, public safety, invasive species, cultural resources and the economy.

It also requests whale observers, requires vehicle inspections, provides oversight of the governor's actions, prohibits the company from suing the state and opens an investigation into why the \$300 million Superferry operation was granted an exception to Hawaii's environmental laws in the first place.

Cardoza may decide to hold hearings on whether to dissolve his order against the Superferry. He heard four weeks of testimony before ruling Oct. 9 that the vessel couldn't sail to Maui until an environmental assessment was completed.

Attorney General Mark Bennett said he will ask Cardoza to rule quickly.

"I'm sure that the judge is going to give the other side a chance to respond to the motion," Bennett said. "But the other side knows the motion is coming, they know what the bill says and they've known for quite some time, so they've had an opportunity to formulate whatever arguments they want to formulate."

Lingle said she hopes Cardoza will free the Superferry based on the new law, not the one it's intended to override.

"The point is, to the judge, your injunction was placed because you believe that the law said this," Lingle said. "Now the law has been changed, and on the basis of this law . . . we will ask him to lift the injunction."

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