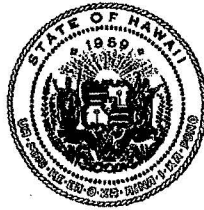
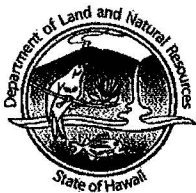


LINDA LINGLE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
WATER, LAND AND OCEAN RESOURCES**

**Friday, January 30, 2009  
9:00 AM**

**State Capitol, Conference Room 325**

**In consideration of  
HOUSE BILL 641  
RELATING TO BEACH ACCESS**

House Bill 641 proposes to have the Department of Land and Natural Resources (Department): (1) identify all shoreline public access rights-of-way in the State, (2) provide information to the public on these rights-of-way, and (3) enforce obstructions of shoreline public access violations section 115-9. The Department has concerns regarding its designation as the agency responsible for the identification, education and enforcement of public rights-of-way since the county governments have been traditionally entrusted with the primary responsibility for ensuring public access and most public access to the State's shoreline areas are in Special Management Areas (SMA) that are regulated by the Counties. As such, the Department does not support this measure as presently written.

The Department is supportive of ensuring the general public's access to the State's shoreline areas, as well as the education of the general public about such access. Under Sections 205A-26(1)(A) & (3)(C), 46-6.5, 115-5 and 115-7, Hawaii Revised Statutes, however, generally, the Counties have the primary authority and duty to develop and maintain public access to and along the shorelines. Therefore, any effort to catalog and publish information regarding these rights-of-way would be accomplished most effectively if done by the county governments since they possess the most current, accurate and comprehensive information regarding established public access locations. Additionally, in most instances, public access rights-of-way to the beaches are located within the SMA and are under the management jurisdiction of the county governments. As the agency holding title to the property interests in the rights-of-way, whether as easements or title in fee, and the agency responsible of regulatory oversight over those areas, the counties are the appropriate entities to enforce against any violations with respect to these rights-of-way. Delegating such responsibilities to the Department, in light of the Counties' current regulatory oversight of those areas, will promote jurisdictional ambiguity that may degrade or confuse enforcement efforts and result in the duplication of existing informational resources at the county level or inefficient use of state resources to collect and publish such data.

LAURA H. THIELEN  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

RUSSELL Y. TSUJI  
FIRST DEPUTY

KEN C. KAWAHARA  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
EDWIN BERG

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAIKOOLAWA ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS



OFFICE OF HAWAIIAN AFFAIRS  
Legislative Testimony

**HB 641, RELATING TO BEACH ACCESS**

House Committee on Water, Land, & Ocean Resources  
January 30, 2009 9:00 a.m.  
Room: 325

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The Office of Hawaiian Affairs **SUPPORTS** HB 641, which would require the Department of Land and Natural Resources to identify all shoreline public rights-of-way throughout Hawai'i, publicize them by a choice of a variety of methods, and enforce the ability of the public to access their shoreline.

OHA recognizes that the shoreline of this state is held in public trust for the use and enjoyment of all. Additionally, our beneficiaries - all Native Hawaiians - have cultural, subsistence and religious rights guaranteed to them by the Hawai'i State Constitution and further strengthened by statutes, rules and court cases that this bill will compliment.

This is a bill that is timely and much needed. It is not radical or a departure from regulatory norms, rather, it embodies them.

Our coastal areas and resources were meant to be preserved for the enjoyment of the public, as can be verified by the Constitution; federal, state, and county laws; and court cases. Yet, much of these coastal areas have been essentially privatized or lost to the public due to the lack of practical access.

OHA has become increasingly concerned over what amounts to the privatization of our shoreline areas by such things as developers and private homeowners who cut off access near their properties without providing for new points of entry. A host of regulatory regimes exist to counter or avoid these types of unfortunate situations, yet the problems persist, and even continue to worsen, as evidenced by the number of new bills introduced every legislative session on this topic.

Therefore, OHA urges the Committee to PASS HB 641. Thank you for the opportunity to testify.

1-29-09

We the Park ohana is in STRONG  
FAVOR of H.B.# 641. Beach access  
is needed every where on our islands. Please  
Keep this bill going!

Sandra M.I. Paeu

Denis E. Clark

Here is my address [redacted]  
phone# [redacted]  
email address [redacted]  
if we can be of help

Attention Sharon HAR  
FAX # 586-8504

2 of 2  
1/29/09

I Keith Sienkiewicz approve of HB 641.  
The community is great need of access to our  
shorelines. The location of all public rights-  
of-way should be published.

Mahalo,  
Keith Sienkiewicz

Keith Sienkiewicz

[Redacted signature area]

hb641 testimony 20091029.txt

Philip Thomas (individual/citizen)

To (committees): WLO

Hearing: 30 January 2009, 9am

HB641 testimony (IN FAVOR)

I strongly SUPPORT HB641. Anything that will help identify and clarify definitions of public beach access points (and add to enforcement to ensure unobstructed access) is a good thing.

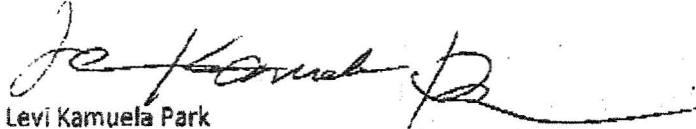
Aloha,  
Philip Thomas

01/29/09

To Whom It May Concern,

I am writing this letter to support House Bill 641 and 645. I believe that these two bills are important for my family as they allow us to continue traditions passed down from generation to generation. These bills are particularly important to me as my wife is 6 months pregnant with our first child. I would like the opportunity to share the lifestyle, culture, and knowledge with our child and these bills will ensure that I am able to legally do this. Please give these bills your full consideration.

Mahalo Nui Loa



Levi Kamuela Park

To: The Committee on Water, Land and Ocean Resources  
Representative Ken Ito, Chair and Representative Sharon Har, Vice Chair

From: Dr. Robin Fujikawa , Mrs. Linda Fujikawa, Mr. Sho Fujikawa on behalf of  
Gen Fujikawa (deceased)

Date: January 29, 2009

Tomorrow is our son Gen Fujikawa's birthday. Gen, 18, died 3 years ago in a diving accident. Gen lived fully with compassion and passion, especially for the ocean, nature, and people of Hawaii. Part of his ashes has returned to the sea of Kaena Point, his beloved fishing, diving, and camping spot.

Gen took "Not In My Backyard" and changed it to "Now In My Backyard," by bringing home garbage from the fishing area. He shared his fish with the homeless along the Leeward coast when he had enough to share. He volunteered at the DLNR Anuenue fisheries. The moi fingerlings he raised and released are now gracing many homes with good dinner for all. Today, he would have been serving with Americorps and Youth Conservation Corps on the Big Island working on invasive species control, attending Hawaii Community College. His life goal was to work in the area aqua culture.

The ocean nurtured this passion and compassion in our son Gen. The time spent outdoors, especially the beach, renews the soul of all. We hope that HB641 will allow all to enjoy the beaches responsibly, not only a select few. This is vital to the well being of our keikis, our future konohiki of our beloved 'aina, Hawaii.

**Date: Thurs., Jan. 29, 2009**

**From: Rich Figel, BEACH ACCESS HAWAII Co-founder**

**To: House WLO Committee**

**Re: HB641**

While I support the intent of the bill to have the DLNR provide an inventory of public beach accesses, and to have those accesses clearly marked, I feel this measure is not needed at this time.

To begin with, the DLNR already does have an inventory of existing public rights of way, and to my knowledge there is adequate signage (at least on the island of Oahu).

What is really needed, but isn't addressed in this bill, is a study that would identify where ADDITIONAL public rights of way are needed.

However, the DLNR staff I've been in touch with have made it clear to me that they do not believe public shoreline access is in their jurisdiction. They say anything above the high water wash along the coastline is the responsibility of the counties.

Yet I have come across wording in state legislation that says the State Office of Planning Coastal Zone Management division is responsible for public beach access.

Currently, the county of Honolulu has NO specific standards for public beach access on Oahu. According to City Councilwoman Barbara Marshall, the city's attorney says there are only suggested "guidelines" for beach access.

In light of this, I would propose that HB641 be put aside, and focus instead on HB1447, which would create a joint task force comprised of both state and county representatives to come up with a comprehensive, integrated shoreline management plan that will include state-wide standards for public beach access.

Otherwise, we will continue to see a rash of beach access and shoreline management bills every legislative session, all dealing with different aspects of problems created by the split jurisdiction between the state and counties -- and the problems will continue to be bounced back and forth between them, with no resolution or progress.

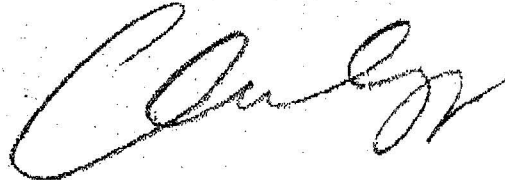
Thanks for allowing me to share my views!

Aloha,  
Rich Figel



1-29-09

I, CLINTON NIPP AND OHANA  
IS IN STRONG FAVOR OF H.B#641.



ATTENTION: SHARON HAR  
FAX # 586-8504