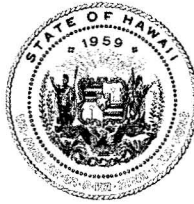


LINDA LINGLE  
GOVERNOR OF HAWAII



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

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HONOLULU, HAWAII 96809

**Testimony of  
LAURA H. THIELEN  
Chairperson**

**Before the House Committee on  
HIGHER EDUCATION**

**Tuesday, March 17, 2009  
2:15 PM**

**State Capitol, Conference Room 309**

**In consideration of  
SENATE BILL 1311, SENATE DRAFT 1  
RELATING TO AQUATIC RESOURCES**

Senate Bill 1311, Senate Draft 1 would amend section 187A-12, Hawaii Revised Statutes (HRS) to allow the University of Hawaii (University) to use Department of Land and Natural Resources (Department) staff in addition to land, buildings, apparatus, and appliances of the Department related to a biological laboratory and for research and investigations. Additionally, the Department would exempt University and affiliated personnel from any permitting for any activities to carry out repair and maintenance of the Hawaii Marine Laboratory Refuge as identified in section 188-36, HRS. The Department expresses concerns and cannot support this measure.

Under the proposed change to section 187A-12, HRS, the University could utilize Department staff, or land, buildings, appliances or apparatus owned by the Department for research as long as it did not interfere with ongoing work of the facility or Department personnel. This presents a difficulty for the Department because it does not have a surplus of personnel. This amendment is unnecessary as the University and the Department have long enjoyed a mutual cooperative relationship that is based on trust and respect for each entity's mission. The Department sees no reason for this to change, and opposes this amendment as it might unduly restrict its own mission. This is especially crucial when the State is currently in the process of trying to find savings to reduce its budget and is experiencing freezing or terminating positions.

The proposed change to section 188-36, HRS, to exempt the University from any permitting requirements is viewed as unnecessary as well. A permit allows a privilege conveyed to individuals to perform activity not normally available to the general public. This carries a responsibility to uphold very high standards and should be weighed in terms of overall benefit to society, the resources, and the environment. This responsibility is the Department's and should not be conveyed to another entity. To suggest that any one entity should be exempt conveys a sense of disproportionate equality in the law's application. This should not occur.

**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  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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The Department would point out that a couple of the invasive algae species currently overtaking coral reefs in Kaneohe Bay are the result of inadvertent release of these species from research conducted by the University.

In summary, the Department wishes to continue to work collaboratively with the University but should not be required to share its already limited manpower, and must maintain its fiduciary oversight for the welfare of Hawaii's natural resources.

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# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

Written Testimony Presented Before the  
House Committee on Higher Education  
March 17, 2009, 2:15 p.m.

by  
Virginia S. Hinshaw, Chancellor  
and  
Brian Taylor, Dean  
School of Ocean & Earth Science & Technology  
University of Hawai'i at Mānoa

### SB 1311 SD1 Relating to Aquatic Resources

Aloha Chair Chang, Vice Chair Nakashima and Members of the Committee. I thank you for the opportunity to testify regarding the Hawai'i marine laboratory refuge.

My name is Jo-Ann Leong and I am the Director of the Hawai'i Institute of Marine Biology. I am testifying in support of Senate Bill 1311, SD1 that amends Statutes 187A-12 and 188-36. These changes exempt the University of Hawai'i from permitting and application requirements "to carry out the repair and maintenance of the Hawai'i marine laboratory refuge," and to use "staff of the Department of Land and Natural Resources in connection with ...aquatic resource activities."

#### Background:

Moku o Lo'e, more widely known as Coconut Island, is located in southern Kāne'ōhe Bay on the island of O'ahu and is home to the Hawai'i Institute of marine Biology (HIMB), a research institute within the School of Ocean & Earth Science & Technology, University of Hawai'i at Mānoa. The island itself provides a unique living laboratory surrounded by 64 acres of coral reef designated by the state of Hawai'i as a Hawai'i marine laboratory refuge. Approximately 28 acres in size, Moku o Lo'e is also designated as a Conservation District, requiring unique security and grounds maintenance efforts far greater than most organized units on the main campus of the University of Hawai'i. HIMB is supported solely by state funds and competitively obtained extramural grant dollars. We support our security personnel and a groundskeeper and janitorial/maintenance personnel on return of indirect costs from grant dollars.

HIMB scientists, students and staff are concerned with the careful management of Hawai'i's marine laboratory refuge and its living resources are critically important to preservation of Hawai'i's marine resources. We carry, currently, 11 research projects for the Division of Aquatic Resources of the Department of Land and Natural Resources. Thus, the research collaboration between HIMB scientists and DAR is well established. For these studies, HIMB must obtain permission from the Land Board to carry out research funded by DLNR. HIMB also provides 24 hour security personnel to ensure that poachers do not impact these resources and

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the studies funded by the state and federal government. HIMB security personnel (projected 2009 costs = \$161,066) does not have the authority to patrol the refuge and stop anyone from taking live coral, fish, and other invertebrates from the refuge. Furthermore, all routine maintenance at HIMB must first be reviewed by the Agency. The replacement of railings and the fixing of bridges at HIMB, the replacement of failing piers, and the repair of steps and roofs are all considered repairs and maintenance that require prior approval by DLNR.

#### Support of the Bill

The amendment to Statute 187A-12 allows the University of Hawai'i to use staff in addition to "the land, buildings, apparatus, and appliances of the department for the purposes of a biological laboratory and for research and investigation in connection herewith..." There is a clear need for security personnel to prevent poachers from taking illegally the natural resources of the Hawai'i marine laboratory refuge. HIMB may, in the near future, be unable to provide the security personnel to ensure protection of Hawai'i marine laboratory refuge.

The amendment to Statute 188-36 in SB1311 SD1 reads "Notwithstanding any other law to the contrary, the University of Hawai'i shall be exempt from any law that requires a permit or application to carry out repair and maintenance of the Hawai'i marine laboratory refuge." We support this amendment. We believe that the intent of the bill was to provide HIMB with some relief from the costs and time required to obtain approval for repairs required to maintain health and safety at a laboratory that is right next to marine waters.

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