



GOV. MSG. NO. 337

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

March 2, 2010

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fifth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB1311 SD1 HD1, without my approval, and with the statement of objections relating to the measure.

SB1311 SD1 HD1

A BILL FOR AN ACT  
RELATING TO AQUATIC RESOURCES.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

March 2, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 1311

Honorable Members  
Twenty-Fifth Legislature  
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 1311 entitled "A Bill for an Act Relating Aquatic Resources."

The purpose of this bill is to exempt the University of Hawaii from any law that requires a permit or application to carry out repair and maintenance of the Hawaii Marine Laboratory Refuge. The bill also allows the University of Hawaii to use Department of Land and Natural Resources staff without charge.

This bill is objectionable because it grants the University of Hawaii an overly broad and unnecessary exemption from permitting requirements that protect and preserve Hawaii's natural public trust resources.

A permit allows a privilege conveyed to individuals or agencies to perform an activity not normally available to the general public. A permit carries a responsibility to uphold high standards that will benefit society and protect our environment. To exempt a single State agency, in this case the Hawaii Institute of Marine Biology, from this obligation is inappropriate and conveys to them disproportionate powers without adequate public accountability.

The legislation fails to define what constitutes repair and maintenance activities. It is unclear what projects would be granted a permitting exemption under this measure. The lack of guidance provided by the ambiguous bill language could exempt a broad range of activities from the State's permitting requirements.

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Further, the measure is unnecessary since routine repair and maintenance of facilities existing in conservation districts are already permissible under current conservation district rules. Any activities that extend beyond basic repair and maintenance projects in a conservation district should be subject to the additional oversight and standards established in the permitting process.

Additionally, the bill would allow the University to use the Department of Land and Natural Resources staff at no charge in the operations of the Hawaii Institute of Marine Biology. The department does not have surplus personnel to take on additional responsibilities. This legislation would impose a durable and indeterminate potential fiscal liability on the Department of Land and Natural Resources.

For the foregoing reasons, I am returning Senate Bill No. 1311 without my approval.

Respectfully,



LINDA LINGLE  
Governor of Hawaii

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## A BILL FOR AN ACT

RELATING TO AQUATIC RESOURCES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this Act is to protect Hawai'i's  
2 natural resources and to promote and expand collaboration among  
3 state agencies.

4           SECTION 2. Section 187A-12, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "§187A-12 University of Hawaii may use land, etc. The  
7 University of Hawaii shall have the privilege, free of charge,  
8 of using the land, buildings, apparatus, staff, and appliances  
9 of the department for the purposes of a biological laboratory  
10 and for research and investigation in connection therewith, so  
11 far as the same can be done without material interference with  
12 the use of the same as an aquatic life propagation station or  
13 for other aquatic-resources activities. The university shall  
14 render to the department, in return therefor, such assistance as  
15 is reasonably practicable, in connection with the aquatic life  
16 propagation station or for other aquatic-resources activities,  
17 and as may be mutually agreed upon."



1 SECTION 3. Section 188-36, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§188-36 Hawaii marine laboratory refuge. It is unlawful  
4 for any person within the Hawaii marine laboratory refuge to  
5 take any aquatic life. Nothing in this section shall apply to  
6 any officer, faculty member, employee, or student of the  
7 University of Hawaii or licensee of the board of regents of the  
8 University of Hawaii, while employed in catching or taking  
9 aquatic life for scientific purposes.

10 The Hawaii marine laboratory refuge consists of the reefs  
11 and bay waters surrounding the island of Moku-o-loe located in  
12 Kaneohe Bay, island of Oahu, from the high water mark on the  
13 island extending outward to [u]twenty-five feet beyond the outer  
14 edges of the reefs. [u]

15 All laws enacted for the protection of aquatic life or  
16 wildlife shall likewise apply to the Hawaii marine laboratory  
17 refuge, except that no person or persons, other than those  
18 designated by this section, shall be authorized to catch or take  
19 aquatic life in the refuge.

20 The Hawaii marine laboratory refuge shall continue only as  
21 long as the regents of the University of Hawaii maintain the



1 Hawaii marine laboratory on the island of Moku-o-loe, island of  
2 Oahu.

3 Notwithstanding any other law to the contrary, the  
4 University of Hawaii shall be exempt from any law that requires  
5 a permit or application to carry out repair and maintenance of  
6 the Hawaii marine laboratory refuge."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect on July 1, 2010.

