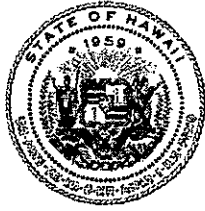


LINDA LINGLE  
GOVERNOR OF HAWAII



**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  
FINANCE**

**Thursday, March 25, 2010  
3:30 pm  
State Capitol, Conference Room 308**

**In Consideration Of  
SENATE BILL 1315, SENATE DRAFT 2, HOUSE DRAFT 1  
RELATING TO CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM**

Senate Bill 1315, Senate Draft 2, House Draft 1, would establish the Conservation and Resources Enforcement Special Fund in the Department of Land and Natural Resources (Department) for the purpose of setting aside monies to be used toward the protection of the State's natural resources. The Department strongly supports this measure as presently and notes its similarity to the Administration's proposal, House Bill 2584 (RELATING TO THE CONSERVATION AND RESOURCES ENFORCEMENT SPECIAL FUND).

The Department's Division of Conservation and Resources Enforcement (DOCARE) has been approached by private grant-funding sources that are interested in partnering with DOCARE to improve natural, cultural and historic resources, public education, and information as well as providing an opportunity to enhance enforcement operations. However, the Department does not have a special fund to receive and access monies that could directly support DOCARE program activities.

This bill would establish a Conservation and Resources Enforcement Special Fund to receive supplemental funding from various sources, for the enforcement of state, county or federal laws relating to natural, cultural, and historic resources management and protection. While the Department can accept and establish trust accounts to manage a one-year grant from foundations, multi-year non-government funding should be placed into an established and dedicated account.

DOCARE is currently seeking multi-year grants to support the accreditation of DOCARE, which is a multi-year process. One foundation has favorably reviewed the Department's initial application and has invited DOCARE to submit a more detailed full application. The Department respectfully request support of our pursuit of additional funding for this critical function.

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

This bill will benefit the public through the enhancement of our enforcement program and increase opportunities for better compliance through an improved public information and education program and strengthen the Department's efforts to enforce existing resources protection measures.



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The Twenty-Fifth Legislature, State of Hawaii  
Hawaii State House of Representatives  
Committee on Finance

Testimony by  
Hawaii Government Employees Association  
March 25, 2010

S.B. 1315, S.D. 2, H.D. 1 – RELATING  
TO CONSERVATION AND  
RESOURCES ENFORCEMENT  
PROGRAMS

The Hawaii Government Employees' Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 1315, S.D. 2, H.D. 1. As proposed, it would establish a special fund within the Department of Land and Natural Resources (DLNR) for the purpose of protecting the state's natural resources. More specifically, it would fund additional enforcement activities, employee training and education, equipment, wireless communications and information technology as well as other functions deemed necessary by DLNR.

We did not support the earlier version of the bill which proposed moving the Division of Conservation and Resource Enforcement (DOCARE) to the Department of Public Safety (PSD). In 1992, the Office of the Auditor reviewed the potential transfer of DOCARE to PSD and concluded that it should not be transferred.

There are several serious problems with the management and operation of DOCARE. These were well documented in the Management Audit of DOCARE by the state Office of the Auditor in 2006. Unfortunately, many of the managerial and operational problems remain, limiting the effectiveness of the program. However, problems continue due to a lack of funding. S.B. 1315, S.D. 2, H.D. 1 would provide additional funds to DOCARE that are needed to correct these problems.

The HGEA represents the officers within DOCARE who are charged with enforcing state laws and regulations protecting Hawaii's natural resources. Enforcement by the officers is very limited due to inadequate funding. Currently, officers patrol from 7:45 a.m. to 4:30 p.m., and provide only partial coverage to protect the state's lands and waterways. The community knows about this limited coverage and people break laws and rules protecting natural and cultural resources and public safety when the officers are not present.



Of greater concern to the HGEA is how the lack of funding compromises officer safety on a daily basis. The HGEA recently filed two grievances on behalf of the DOCARE officers. One focused on problems related to inadequate communications equipment and the lack of shotguns and rifles. The other grievance addressed the issue of expired body armor vests. Both grievances will likely proceed to arbitration.

The 2006 management audit by the Office of the Auditor reported that the radios provided to DOCARE officers were ineffective because there were numerous areas where the radios do not work because of so-called "dead spots." To compensate for the radio dead spots, officers use their personal cellular phones. In addition to the dead spots, the radios are not compatible with radio systems used by other law enforcement agencies. DOCARE officers often patrol alone and depend on radio communications to request backup in emergency situations. According to the DOCARE officers, these problems still exist. Older radios have not been replaced and repeater antennas are not placed at strategic locations to eliminate or minimize dead spots. The absence of effective communication places DOCARE officers at risk. Ultimately, the state needs to develop a statewide digital radio system for public safety personnel in the various departments.

DOCARE provides handguns and ammunition to officers, but not shotguns or rifles. They can carry their own shotguns, rifles and ammunition. Our members believe that there is a definite need for shotguns or rifles, for example, when patrolling in hunting areas where hunters carry high-powered weapons. The division has rifles available to the officers, but there is no money to purchase ammunition. As a result, the rifles are stored in an armory. The division should follow other comparable state and federal law enforcement agencies that use shotguns or rifles and develop a policy for using them, as well as provide ammunition and proper training. Once again, the lack of funds creates a safety issue for the DOCARE officers.

Perhaps the most disturbing problem is that the DOCARE officers are wearing expired body armor. The department claims it has no money to purchase new vests. All the vests expired in January 2010. Body armor has a life expectancy of five (5) years. Most manufacturers limit their warranties to 5 years. Heat, moisture, ultraviolet and visible light, detergents, friction, and stretching may all contribute to the degradation of fibers used in the manufacture of body armor. There is a definite possibility that body armor more than 5 years old will not protect officers. This is an unacceptable situation that warrants immediate corrective action by DLNR.

House of Representatives - Committee on Finance  
S.B. 1315, S.D. 2, H.D. 1  
March 25, 2010  
Page 3

For all of these important reasons, we appreciate the opportunity to testify in support of  
S.B. 1315, S.D. 2, H.D. 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Nora A. Nomura', written in a cursive style.

Nora A. Nomura  
Deputy Executive Director



The Nature Conservancy  
Hawai'i Program  
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Testimony of The Nature Conservancy of Hawai'i  
Supporting S.B. 1315, HD1 Relating to Conservation & Resources Enforcement Program  
House Committee on Finance  
Thursday, March 25, 2010, 3:30PM, Room 308

The Nature Conservancy supports S.B. 1315, HD1.

Last year, the Conservancy was pleased to provide logistical support, and some financial assistance along with another local foundation, for the Division of Conservation and Resources Enforcement (DOCARE) to begin the process of seeking national law enforcement accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA [www.calea.org](http://www.calea.org)). We believe there are further opportunities for DOCARE to successfully compete for grant funds to complete the rigorous accreditation process, as well as for other projects and programs in support of DOCARE's mission and responsibilities. A dedicated financial account will facilitate these efforts.

The DLNR Division of Conservation and Resources Enforcement (DOCARE) has a specialized mission requiring unique knowledge and training related to the protection of the globally unique and fragile aquatic and terrestrial resources of the State of Hawai'i.

"The overall mission of the Division of Conservation and Resources Enforcement is to promote the safe and responsible use of Hawaii's natural resources."

DOCARE notes as its first objective: "In partnership with others, to help lead the citizens of Hawaii in developing and maintaining a tradition of ethical use, stewardship and sustainability of our land and natural resources."

<http://hawaii.gov/dlnr/docare/mission>

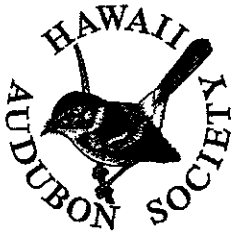
There is widespread agreement amongst a variety of stakeholders that Hawaii's fragile environment is in need of improved compliance, enforcement and prosecution of violations of our State natural resource laws. A 2006 State Auditor's report concludes that DOCARE officers are spread too thin and lack the equipment they need to do their jobs. In a better economy, the Legislature had been able to support an increase in the number of trained officers and equipment. Not to be deterred by the current tough fiscal climate, DOCARE undertook its own review and strategic planning effort to improve its operational processes. Seeking CALEA accreditation was an important outcome of that process.

Against this backdrop, a number of communities across the state have been organizing themselves to become more directly involved in the care and management of their natural resources, particularly in coastal and near shore areas. Some communities have partnered with DOCARE to raise awareness of natural resource laws and to improve compliance with those laws.

DOCARE needs the continued support and encouragement from the Legislature, the Administration, and the public. It is doing an admirable job of independently seeking non-State resources to keep building its capacity and expertise. The proposed HD1 will give them an important tool to achieve success.

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*For the Protection of Hawaii's Native Wildlife*  
**HAWAII AUDUBON SOCIETY**

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**TO: Committee on Finance**  
**Representative Marcus Oshiro, Chair**  
**Representative Marilyn Lee, Vice Chair**

**HEARING: March 25, 2010; 3:30 P.M., Conference Rm. 308**

**Re: SB1315, SD2, HD1, Relating to Conservation and Resources  
Enforcement Program**

**Testimony in Support**

Chair Oshiro and Vice Chair Lee and members of the Committee on Finance, on behalf of the Hawaii Audubon Society we offer our testimony in support of SB1315, SD2, HD1, which establishes the Conservation and Resources Enforcement Special Fund administered by the Department of Land and Natural Resources for enforcement of natural, cultural, and historic resources protection laws and rules.

The Hawaii Audubon Society was founded in 1939, and it is Hawaii's oldest conservation organization. The primary mission of the society is to foster community values that result in the protection and restoration of native ecosystems and habitats. The society strongly supports measures that enhance and improve conservation enforcement activities, especially in critical habitats that are home to Hawaii's endangered bird species.

We believe the establishment of the Conservation and Resources Enforcement Special Fund will in the long term improve DOCARE's ability to effectively uphold laws that serve to protect, conserve and manage Hawaii's unique, fragile and limited natural resources. I will also provide DOCARE greater flexibility in establishing partnerships with key environmental and conservation organizations to work collaboratively in the care and management of critical habitats and coast resources.

Hawaii Audubon Society believes that SB1315, SD2, HD1, is a good bill that not only provides additional flexibility to DOCARE, but will also assist DOCARE in obtaining improved compliance through partnership opportunities with other organizational stakeholders.

Thank you for the opportunity to submit our testimony here today.

Sincerely,

George Massengale, JD  
Legislative Analyst

## **FINTestimony**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 24, 2010 4:46 PM  
**To:** FINTestimony  
**Cc:** wchai@hgea.org  
**Subject:** Testimony for SB1315 on 3/25/2010 3:30:00 PM

Testimony for FIN 3/25/2010 3:30:00 PM SB1315

Conference room: 308  
Testifier position: support  
Testifier will be present: No  
Submitted by: Nora Nomura  
Organization: HGEA  
Address: 888 mililani st honolulu, hawaii  
Phone: 543-0000  
E-mail: [wchai@hgea.org](mailto:wchai@hgea.org)  
Submitted on: 3/24/2010

Comments:



## FINTestimony

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From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, March 24, 2010 6:04 PM  
To: FINTestimony  
Cc: hbpaa@aol.com  
Subject: Testimony for SB1315 on 3/25/2010 3:30:00 PM

Testimony for FIN 3/25/2010 3:30:00 PM SB1315

Conference room: 308  
Testifier position: oppose  
Testifier will be present: Yes  
Submitted by: William E. Mossman  
Organization: Hawaii Boaters Political Action Association  
Address: 282 Aikahi Pl. Kailua, HI  
Phone: 8082542267  
E-mail: hbpaa@aol.com  
Submitted on: 3/24/2010

Comments:  
Testimony on SB1315 SD2 HD1 - FIN 3/25/10, 330 pm, R308

Representative Marcus Oshiro, Chair-FIN

Representative Marilyn Lee, Vice Chair

Dear Chair Oshiro, Vice Chair Lee and members of the Committee,

We are opposed to SB1315 SD2 HD1 and recommend that SB1315 SD2 be reinstated and amended as described herein.

DLNR-DBOR Shortchanged on its DOCARE funding. "HD1" would add to Problem.

Prior to the 1992 establishment of DLNR-DBOR, the state recreational boating programs and facilities were managed, along with the commercial harbors, by the DOT Harbors Division. The security and enforcement requirements for both the recreational and commercial sectors were performed by the single DOT Security force. Please keep in mind that the mission of this security force was/is to protect its harbor facilities and activities on a "24 hrs. basis".

When the recreational boating function was removed from DOT and placed into DLNR, it was determined that the portion of the DOT Harbor Security force that was needed to perform the

security/enforcement requirements for the recreational boating function should also be transferred to the DLNR. This ultimately translated to transferring 18 DOT Harbors security positions to the State conservation and resources enforcement division (DOCARE). The legislature directed that DBOR Boating Special Funds (BSF) would be used to fund these positions, thus the annual est. \$1.5 million transfer from DBOR/BSF(Boating Special Fund) to DOCARE was directed.

Several problems developed (perhaps unanticipated) as a result of this arrangement:

Although the numbers and sizes of recreational boating facilities have not changed significantly since the DOT to DLNR-DBOR transfer, the amount of security/enforcement at these recreational boating facilities has declined considerably. Stark evidence of this reduction of security services at DBOR is the fact that 24 hrs / seven days a week coverage is no longer provided at the boating facilities and a DOCARE officer workload accounting audit conducted a few years ago showed that less than 30% of their work effort was boating related. This is primarily due to the fact that the DBOR funded 18 DOCARE officers whose DOT predecessors provided the 24 hrs. security services for all of the recreational boating facilities while under DOT, must now (under DLNR-DOCARE) also participate in providing enforcement services for the Division of State Parks (park usage), DOFAW (hunting, hiking, etc.), DAR (fisheries rules) in addition to the boating facilities workload. The net result is that DBOR is not receiving the full services of the 18 man years that it expected, and is paying for, because much of these resources are being redirected to the other DLNR Divisions. It is evident that DBOR is not getting what it is paying for. To make matters worse, the DBOR (BSF) is the only division in the DLNR that receives no General Funds and, unlike the other DLNR divisions serviced by DOCARE, it is predominantly funded by its own User Fees; yet, it is the only DLNR Division that provides funding to DOCARE (est. \$1.5 million).

Despite this background, SB1315 SD2 HD1 proposal creates a DOCARE Special Fund that is designed to accept funds from virtually any source and authorizes the DLNR Director to expend these funds for virtually any purpose, e.g. BSF funds could be transferred to the DOCARE Special Fund and used to pay for any of its expenses, - at the direction of the DLNR Director. And, this would be in addition to the est. \$1.5 million payroll expense the BSF already provides to DOCARE. This Bill would allow the DLNR Director to transfer unlimited amounts of money from the BSF (or any special funds of the other DLNR Divisions), to pay DOCARE bills. In addition, this Bill is the precursor of a Recreational Renaissance Special Fund that would effectively establish a "fund of funds" within the DLNR over which the DLNR Director would also have full control, to include the transfer of funds between its Special Funds.

True Special Funds are unique to a well defined group of users with a clear nexus to a specific purpose, as required by Section 37-62.3 HRS "Criteria for the establishment and continuance of special funds". The provisions of this Bill (HD1), do not meet this requirement. Moreover, the redirecting of Special Funds from one group/purpose to another group/purpose must be prohibited. This is especially important in Special Funds that are composed of "user fees". The well established "user pays / user benefits" basis cannot be compromised. It must be protected by Law or Rule. Instead of legislating methods that could compromise the benefits of true Special Funds, efforts should be made to strengthen their rules; - and eliminate those that are obviously intended to be "slush" funds that could be controlled by the Department head as if the funds were "departmental general funds" rather

than specific special funds. This is what the DOCARE Special Fund would become under the current administration.

Our Constitutional expectations that our laws would be "fair and equitable" are being stomped on by the growing number of DLNR directives that are rammed through and dedicated to "making more money" at the expense of public service and "increasing the authority and power" of the Director. Please don't aid and abet these misguided efforts that are being led by the "damn the public interest, my way or the highway!!" attitude.

Recommended Resolution:

Do not create a DOCARE special fund, or any other Special Fund that does not meet the unique requirements of a true special fund and essentially functions as a departmental "money laundering" device.

Reinstate SB1315 SD2 and amend it as follows :

Remove the authority/responsibility for providing security/enforcement services for just the DLNR-DBOR boating program and facilities from DLNR-DOCARE and place it with the State Department of Public Safety . It is better able to provide the type of facility security/enforcement that the Boating Division wants and needs.

Transfer the 18 security positions (from DOCARE) and funding (from the Boating Special Fund) to DPS.

Reinstate 24 hrs. security coverage at DBOR boating facilities.

Thank you for this opportunity to share my thoughts and recommendations.

Sincerely,

William E. Mossman

Hawaii Boaters Political Action Association