

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON WATER, LAND, AND OCEAN RESOURCES
ON
SENATE BILL NO. 1315, S.D. 2, PROPOSED H.D. 1

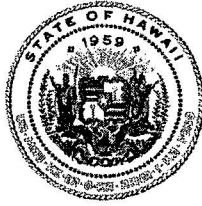
March 5, 2010

RELATING TO CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM

Senate Bill No. 1315, S.D. 2, Proposed H.D. 1, establishes a new special fund to pay for activities that protect the State's natural resources. The revenue for this fund would come from private contributions, fees, reimbursements, and administrative charges and penalties collected for activities related to the enforcement of natural, cultural, and historic resources protection laws and rules. The bill appropriates \$250,000 from the conservation and resources enforcement special fund for Fiscal Year 2011.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-53.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. It is difficult to determine whether there is a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program.

LINDA LINGLE
GOVERNOR OF HAWAII



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

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**Testimony Of
LAURA H. THIELEN
Chairperson**

**Before the House Committee On
WATER, LAND, & OCEAN RESOURCES**

**Friday, March 5, 2010
11:30 A.M.
State Capitol, Conference Room 325**

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

Senate Bill 1315, Senate Draft 2, Proposed 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 the proposed House Draft 1 of this measure 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
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

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.

From: WLOtestimony
Subject: FW: Testimony for SB1315 on 3/5/2010 11:30:00 AM

From: mailinglist@capitol.hawaii.gov [mailto:mailinglist@capitol.hawaii.gov]
Sent: Thursday, March 04, 2010 10:12 AM
To: WLOtestimony
Cc: hbpaa@aol.com
Subject: Testimony for SB1315 on 3/5/2010 11:30:00 AM

Testimony for WLO 3/5/2010 11:30:00 AM SB1315

Conference room: 325
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: 3/4/2010

Comments:

Representative Ken Ito, Chair-WLO
Representative Sharon Har, Vice Chair

Dear Chair Ito, Vice Chair Har and members of the Committee,

Aloha. I'm sure there will be many testifiers who will oppose SB1315 SD2; and I am about to embark on an effort to show you why the proposed SB1315 SD2 HD1 should also be opposed. I also know that our current dilemma will only be made worse by a status quo. Therefore, I will end my testimony with a recommended resolution that I believe would best serve the greater public interest

DBOR Shortchanged on DOCARE investment. "HD1" would add to Problem.

Prior to the 1992 establishment of 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 the newly formed DBOR, 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 began.

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 DBOR transfer, the amount of security/enforcement at these 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 to 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 positions that 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 diverted to the other DLNR Divisions. It is evident that DBOR is not getting what it is paying for. Moreover, 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, the 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, including all of the "boaters' user fees", to pay DOCARE bills. In addition, this Bill reinforces the more pervasive purpose of HB2580/SB2733 to create 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 well defined specific groups with a well defined purpose. Redirecting 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.

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 opinion, my way or the highway!!" attitude.

Recommended Resolution:

1. 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 "money laundering" device. Hold SB1315 SD2 HD1.
2. Amend SB1315 SD2 to:
 - · remove the responsibility for providing security/enforcement services for the DLNR-DBOR boating program and facilities from DLNR-DOCARE and place it with the State Department of Public Safety. DPS is better able to provide the type of security/enforcement that the Boating Division wants and needs.
 - · Transfer the 18 security positions and funding (from the Boating Special Fund) to DPS
 - · Reinstate 24 hrs. security coverage of boating facilities.

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

Sincerely,

William E. Mossman
Hawaii Boaters Political Action Association



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State House of Representatives
Committee on Water, Land & Ocean Resources

Testimony by
Hawaii Government Employees Association
March 5, 2010

S.B. 1315, S.D. 2 (Proposed 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 (Proposed 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 (Proposed 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 Water, Land & Ocean Resources
S.B. 1315, S.D. 2 (Proposed H.D. 1)
March 5, 2010
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For all of these important reasons, we appreciate the opportunity to testify in support of
S.B. 1315, S.D. 2 (Proposed H.D. 1).

Respectfully submitted,

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

Nora A. Nomura
Deputy Executive Director



The Nature Conservancy
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Testimony of The Nature Conservancy of Hawai'i
Supporting S.B. 1315 Proposed HD1 Relating to Conservation and
Resources Enforcement Program
House Committee on Water, Land & Ocean Resources
Friday, March 5, 2010, 11:30AM, Room 325

The Nature Conservancy supports the proposed HD1 for S.B. 1315.

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). 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.

BOARD OF TRUSTEES

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March 4, 2010

Testimony in Vigorous Opposition to the Proposed HD1 to SB 1315 SD2

House Committee on Water, Land & Ocean Resources
in room 325 on Friday, 5 March 2010 at 1130

Chair Ito and Respected Members of the Committee;

My name is Reg White. I am a lifelong recreational boater and my family has been heavily involved in recreational boating in Hawaii since the mid nineteen twenties. Things continue to change in Hawaii, but not always for the better, and this proposed HD1 is a classic example of something going very wrong. This bill, SB1315, SD2 was intended to remove the burden of law enforcement from the back of DLNR. This is a mission for which DLNR is not suited. They are dedicated to preservation of our natural resources, enforcement is foreign to their calling and nature, and as a result they continually fail at the task. That's not something to be ashamed of on the part of the department, they are simply not suited for the job and should never have been assigned the task. SB1315, SD2 as submitted to you would have taken care of that problem and would have left DLNR free to concentrate on it's real lifetime goals with an efficient law enforcement agency ready and able to back them up upon request at any time. This proposed HD1 removes all of those benefits from the bill, leaves enforcement as a failing responsibility of DLNR and proposes instead to use this failure as an excuse to create yet one more slush fund, oh, excuse me, "Special Fund", for the department to mismanage.

Forget it!! This HD1 is poorly thought out and is not good for the department nor the public.

Please do not amend this bill from the SD2 form.

Sincerely,

Reg White
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