

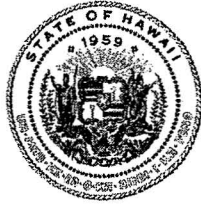
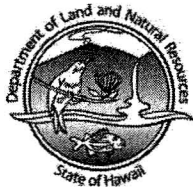
From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 03, 2011 10:12 AM
To: WLOtestimony
Cc: Tracy.S.Oshiro@hawaii.gov
Subject: Testimony for HB1436 on 2/4/2011 9:00:00 AM
Attachments: HB1436_LNR_02-04-11_WLO.pdf

Testimony for WLO 2/4/2011 9:00:00 AM HB1436

Conference room: 325
Testifier position: oppose
Testifier will be present: Yes
Submitted by: Tracy Oshiro
Organization: DLNR
Address: 1151 Punchbowl Street Honolulu, HI 96813
Phone: (808) 587-1495
E-mail: Tracy.S.Oshiro@hawaii.gov
Submitted on: 2/3/2011

Comments:

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

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

**Friday, February 04, 2011
9:00 A.M.
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1436
RELATING TO HARBORS**

House Bill 1436 establishes a working group for the purpose of creating a model for private-public governance of the Honokohau marina and small boat harbor (SBH) with the oversight and assistance of the Division of Boating and Ocean Recreation, the agency charged with managing this facility within the Department of Land and Natural Resources (Department). The Department does not support this measure.

Part I, SECTION 2 (a) establishes a working group within the Department and requires the Department to provide all administrative, technical, professional, and clerical support required by the Group. The Department has neither the staff nor the resources to support such a group. The Department is currently a member of and supports numerous groups and Boards and adding yet another one will strain the Departments limited resources.

SECTION 2 (d) requires the Department to reimburse the working group for expenses, including travel costs. As stated above, the Department has limited financial resources due to the current fiscal condition of the State and adding additional expenses will strain the already limited staff currently tasked with essential day-to-day functions.

Part 2, SECTION 3, proposes to dedicate the revenues generated from approximately 17.70 acres of fast-lands surrounding the Honokohau Small Boat Harbor (SBH) to marina operations. The department operates a system of harbor facilities, boat ramps and offshore moorings across the state. This system generates revenues deposited into the boating special fund that is used to support all harbors and facilities. The facilities that benefit the most are the ones that cannot generate revenue needed to cover basic operating expenses. Honokohau is one such harbor that operates at a deficit. The revenue generated from the harbor's surrounding fast lands is already

WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
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

used to help offset expenses generated in the harbor as well as other facilities located in Hawaii District that include the North and South Kawaihae SBH's, Wailoa SBH, all launch ramps, and the coastal areas program. Even with the inclusion of all the revenues generated from the fast lands adjacent to harbors that the Department manages on the Big Island, the Hawaii District still operates at a deficit and is subsidized by revenues generated from other harbors and facilities elsewhere the state. Dedicating revenues generated from the fast lands to a specific harbor will have a detrimental effect on every other recreational boating facility managed by the Department. The Department must be free to focus its financial resources where the need is greatest, especially at this point in time when harbor infrastructure is failing. We feel the department is just about to turn the corner on repairs and maintenance. To require the funds generated by a single harbor be kept in that location is a barrier to our recovery of the entire system. It is a misperception that Honokohau generates enough revenue from fees and leases of fast lands to cover its expenses. It has, in the past, benefitted from funding generated by the many other facilities in the Department's system and will continue to benefit as long as the Department's boating facilities are regarded as one unit, managed by one entity.

Part 2, SECTION 4 (d), establishes an Executive Board that will be responsible for the general administration and operation of the marina and shall have power to formulate policy and exercise control over the marina. This will cause a conflict of interest between the Board of Land and Natural Resources (Land Board) and the proposed Executive Board. The Land Board currently is responsible for establishing policy regarding the operation of the harbors. The current State employees are responsible for the management and operation of the Honokohau SBH. Attempting to merge these responsibilities will inevitably lead to union issues and conflicts between the two managing entities.

Part 2, SECTION 4 (f)(3), would delegate authority to the proposed Executive Board to employ a Harbor Master as well as other personnel necessary to operate and maintain the marina. As long as the Department has jurisdiction over the facility the responsibility to hire personnel should remain with the Department.

Part 2, SECTION (g)(b), requires the Department to cooperate and assist the proposed Executive Board and provide support and oversight to the marina. Creating an Executive Board will add another layer of bureaucracy that will make the decision making process increasingly more cumbersome and lead to disputes about which agency has ultimate authority in policy-making decisions for the harbor.

Part 2, SECTION (j), creates the Honokohau special fund and all moneys and fees generated within the harbor and fast lands will be deposited to this fund. The fund will then be used exclusively to pay expenses relating to the marina. Currently, the SBH's are required to pay, in addition to basic operating costs, 20% of gross to the Office of Hawaiian Affairs for ceded lands, 7% of gross to Budget and Finance for support services, \$1.5 million to the Department's Division of Conservation and Resources Enforcement for enforcement services, as well as pay the debt service on past and future CIP projects. The Honokohau marina will still need to cover their portion of the costs otherwise the burden of covering these costs will fall to all the other facilities within the program. As mention before, the Honokohau SBH currently operates at a deficit and adding additional costs and responsibilities as well as segregating funds will cause the harbor to fall further into debt.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LIEUTENANT GOVERNOR

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CATHY L. TAKASE
ACTING DIRECTOR

To: House Committee on Water, Land, and Ocean Resources

From: Cathy L. Takase, Acting Director

Hearing: February 4, 2011, 9:00 a.m.
State Capitol, Room 325

Re: Testimony on H.B. 1436
Relating to Harbors

Thank you for the opportunity to submit testimony on H.B. No. 1436.

OIP has no position on the substance of this bill, which would establish a working group to pursue private-public governance of the Honokohau marina and small boat harbor, but requests a clarifying amendment to the provision at page 8, lines 13-18 of the bill, allowing the board to go into closed session to receive proprietary information.

OIP recommends that the meaning of proprietary information be clarified by phrasing it as “. . . information that [~~is proprietary to~~] would be protected under section 92F-13(3) as confidential business information of a particular enterprise that seeks entry . . .” OIP further recommends clarifying that such a closed session will follow the Sunshine Law’s procedural requirements for holding a

closed session, by adding language to line 18 as follows: “. . . executive meeting that is closed to the public[-] in accordance with the procedures provided for holding an executive meeting under part I of chapter 92.”

Thank you for the opportunity to testify.

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 02, 2011 4:35 PM
To: WLOtestimony
Cc: rgaffney@pacificboatsales.com
Subject: Testimony for HB1436 on 2/4/2011 9:00:00 AM

Testimony for WLO 2/4/2011 9:00:00 AM HB1436

Conference room: 325
Testifier position: comments only
Testifier will be present: No
Submitted by: Rick Gaffney
Organization: Hawaii Fishing & Boating Association
Address:
Phone: 8089606767
E-mail: rgaffney@pacificboatsales.com
Submitted on: 2/2/2011

Comments:
Re: HB 1436 Relating to Harbors
Friday, 02-04-11, 9:00AM
House conference room 325

Chm Chang and Members of the Committee:

The Hawaii Fishing & Boating Association (HF&BA) Executive Committee has reviewed the legislative proposal demonstration project outlined in HB 1436. The over 1280 members of the HF&BA are very interested in helping to develop a new management paradigm for Honokohau Small Boat Harbor, and we have investigated and discussed with DOBOR staff, and others, many ways that that could take shape, however, we feel that HB1436 needs substantial work in order to realize its proposed goals.

We believe that there needs to be a complete change in the way Honokohau is managed, and hope to get the opportunity to focus our efforts on the creation of an entirely new means of small boat harbor management, and one with a reasonable chance for success.

Here are some suggested changes (any of which should be incorporated throughout the Bill):

- 1) Part I, Section 1, line 5: change "for developing a full service marina" to: developing a new small boat harbor management paradigm.
- 2) Part I, Section 1, line 9, change "harbor users, tenants" to: watercraft users and harbor tenants.
- 3) Part I, Section 1, page 2 line 1, drop the words "and oversight"
- 4) Part I, section 2, page 2, line 21, add (note: DOBOR designee may not be the Hawaii District Manager)
- 5) Part II, Section 3, line 8, drop: "and oversight"
- 6) Part II, Section 3, line 17, capitalize "marina"
- 7) Part II, Section 3, line 19, drop: "marina and"
- 8) Same as above for line 22
- 9) Part II, Section 4, line 15-16, capitalize "marina" drop the words "small boat harbor"
- 10) Part II, Section 4 (b), line 19 capitalize "marina"
- 11) line 22 same as above
- 12) Part II, Section 4 (c), line 1 capitalize "marina"
- 13) Part II, Section 4 (d), line 13 add: fiscal and management between the words "exercise" and "control"

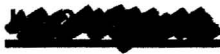
Starting with part II, Section 4, we feel that the legislation becomes far too specific, tying the hands of the proposed management board from being able to do those things that will assure the likelihood of success of this demonstration project.

There are dozens of examples of workable solutions for public management of state boating facilities around the country and several national organizations that could provide invaluable insight into a new management paradigm for Honokohau. Over-legislating this process at the beginning will doom it to failure.

Moreover, we are deeply concerned that HB 1436 presupposes a substantial role for DOBOR in the on-going management of the Honokohau marina. The history of DOBOR's dysfunctional management of the State's small boat harbors has been continuously documented and decried by the office of the legislative auditor, for decades. We would argue that requiring a substantial management role and authority for DOBOR would doom this demonstration project to failure, from the day this legislation passes. Please consider that history and concern carefully as you deliberate over this bill.

We look forward to helping to rewrite this legislation, and working toward the development of a successful demonstration project that will fix the many management deficits in West Hawaii's most important boating and ocean recreation facility. This bill is a god start, but needs a lot of work in order to be successful.

Mahalo,
Rick Gaffney, President
Hawaii Fishing & Boating Association
74-425 Kealakehe Parkway, # 3-B
Kailua-Kona, HI 96740



From: Tina Prettyman [tina@gentrykona.com]
Sent: Wednesday, February 02, 2011 4:49 PM
To: WLOtestimony
Subject: Testimony for HB 1436, 2/4/11 at 9:00 a.m.
Attachments: GKM Inc. Testimony HB1436.pdf

See attached letter. Thanks, Tina

**GENTRY'S
KONA MARINA
HONOKOHAU HARBOR**

74-425 Kealahou Parkway, Kailua-Kona, Hawaii 96740 • Phone 808.329.7896 Fax 808.329.7372 • Toll Free 888.458.7896

February 2, 2011

Attention: Committee of Water, Land, & Ocean Resources

House of Representatives
The Twenty-Sixth Legislature
Regular Session of 2011
State Capitol
415 South Beretania Street
Honolulu, Hawaii

Via email: WLOtestimony@Capitol.hawaii.gov

Re: H.B. No. 1436, Hearing on Friday, February 4, 2011 at 9:00 a.m., Conference Room 325

Representatives of the House,

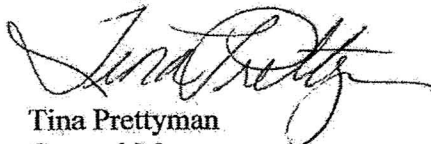
I represent GKM Inc. dba Gentry's Kona Marina whose current place of business is located at the Honokohau Small Boat Harbor. GKM Inc. is a lessee of the State of Hawaii, Department of Land and Natural Resources, Boating Division, Harbor Lease No. H-82-4. We have been providing haul out and dry dock facilities for vessels in need of repair and servicing since 1985. We have 23 independent small businesses within our facility that sublease space and provide services that support our boating and ocean recreation community. Collectively there are well over 100 employees that work here.

Section 1, lines 6 thru 9, state "that a private-public framework for the management and operation of marinas and small boat harbors in the State would improve the efficiency and effectiveness of service to the harbor users, tenants, and the surrounding community."

In reviewing proposed House Bill No. 1436, Section 2 (c) there is no member being proposed that represents the current service providers, that have been providing service at Honokohau Small Boat Harbor for the past 26 years.

As currently written we do not support House Bill No. 1436 and the establishment of a working group for the private-public management demonstration without a member that represents existing leasehold stakeholders.

Sincerely,



Tina Prettyman
General Manager