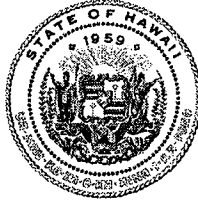


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

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

**Before the Senate Committee on
WAYS AND MEANS**

**Tuesday, March 1, 2011
9:20 AM
State Capitol, Conference Room 211**

**In consideration of
SENATE BILL 1555, SENATE DRAFT 1
RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES**

Senate Bill 1555, Senate Draft 1 proposes to: 1) Establish a public corporation to administer an appropriate and culturally-sensitive public land development program; 2) Allow the limited issuance of commercial use permits for vessels with assigned moorings in Ala Wai and Keehi harbors; 3) Provide for future mooring fees to be established by appraisal by a state-licensed appraiser; and 4); Direct the Department of Land and Natural Resources (Department) to use the request for proposals process to enter into a public-private partnership for the development of portions of Ala Wai small boat harbor facilities that are presently under-used to maximize the revenue potential from its facilities.

The Department supports PARTs 2, 3, and 4 of this bill, but is concerned that PART 1, which establishes a public corporation, may not significantly improve the Department's efforts to optimize public use and develop the revenue potential of public lands, and may instead jeopardize the Department's ability to fund its own programs and operations as well as take advantage of public-private partnerships it is already pursuing.

The Department appreciates the intent of the bill to create a development arm of the Department to assist in making optimal use of public lands by creating recreation and leisure areas and revenue-generating opportunities for the new corporation and the Department. Unfortunately, as drafted, the bill will likely only serve to create an additional organizational layer, and that the transfer of all of the public lands suitable for development from the Department to the new corporation will hamper the Department's attempts to expand its revenue generation because any revenue generated from those lands would first go to the new corporation and only the excess, if any, would be transferred to the Department to cover operational expenses and programs.

LATE

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

GUY H. KAULUKUKUI
FIRST DEPUTY

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AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Aside from the fiscal shortfalls and restrictions, the most serious impediments to development that have hampered the Department's efforts to make optimal use of public lands in a timely fashion are the various environmental review laws, the restrictions imposed by Chapter 171, Hawaii Revised Statutes, and the costly and time-consuming zoning and building requirements set by the Counties. Special development corporations and agencies, such as the Agribusiness Development Corporation, Hawaii Community Development Corporation, and Department of Hawaiian Homes Lands, are able to carry out their missions of developing state lands for their respective purposes because they have been provided statutory exemptions from those restrictions and requirements. Even with those special powers though, even those agencies have faced their own set of difficulties in achieving the expectations for which they were established in an expedited time frame. As written, the new corporation provides certain exemptions for newly acquired properties but fails to provide any relief from those restrictions and requirements for lands currently held by and transferred from the Department. Without such relief, the new corporation will not have the development advantages of even the other special development corporations and agencies and will face the same development impediments that the Department currently faces.

The Department is concerned that the bill does not provide an appropriation to carry out the purposes of the measure. That would mean the Department would need to look to existing funds to support a new 11-member Board, Board secretary, an Executive Director and support staff. The Department estimates that the annual costs for this new Board (**excluding** the salary and fringes of an Executive Director and support staff) to be around \$175,000 to \$200,000. By adding an Executive Director and, even a small staff of two or three planning staff, would raise that budget easily to over half a million dollars a year. Meanwhile, as noted above, the Department has had to face severe budget cutbacks during the last several years. The Department's general fund appropriations and special fund revenues have dropped significantly over the last several years, and the Department lost more than 10% of its positions over the past two years. As a matter of financial reality, there is simply no means at this time to support a new 11-member Board and staffing.

Additionally, the Department notes a technical flaw in the organizational structure of the new corporation. The board of directors for the corporation consists of eleven members, however, the appointment process for only ten members are identified – four county members, four at-large members, the Director of the Department of Business, Economic Development, and Tourism, and the Chairperson of the Board of Land and Natural Resources. The designation and appointment of the remaining member is missing.¹ The Department is also concerned that an 11-member board may not be as effective as a smaller board for this type of entity with a narrow operational mission.

With regards to PART II, Rehabilitation of the Ala Wai Small Boat Harbor, The Department offers the following comments:

- The Department supports the issuance of a limited amount of commercial use permits for vessels operating from the Ala Wai and Keehi small boat harbors. The Department notes that these are the only two harbors that currently do not allow for commercial vessel

¹ The Department notes that the Board of Land and Natural Resources and the Commission on Water Resource Management currently operate with 7 members each. A larger board, such as having 11 members, may make matters a bit unwieldy, especially if the object is move projects out and generate revenues in an expedited fashion.

activity. Commercial vessel mooring within the Ala Wai Small Boat Harbor should not be limited to specific areas. Defining the commercial mooring areas, limits the Department's ability to effectively manage the facility. Should an area become unusable for any reason, we need the ability to relocate vessels whether they are commercial or not.

- Fees collected within each small boat harbor shall only be expended on costs related to the operation, upkeep, maintenance and improvement of the small boat harbor from which the revenues were collected. Do fees include the land lease rents not associated with the mooring program? If so, that would effectively eliminate revenue used to support the public areas, such as, the launch ramps, offshore mooring areas, coastal areas program, and smaller harbors that will never be self-sufficient. If the fees in question are associated with the mooring program only, then the department could support this section of the measure.
- Commercial catamarans are currently paying \$8.50 per year for the exclusive privilege of operating from Waikiki Beach. The recommendation from the Department is to amend the language to clarify that commercial catamaran operations are required to be issued a commercial use permit from the Department and pay the same commercial use fees as all other commercial vessel operators.
- Because of the current fiscal condition of the State and the fact that capital improvement money is limited, the Department supports establishing use fees by appraised value. This way, the Department can be assured that it is receiving fair market return on the exclusive use of the public facilities. Revenues exceeding the actual operating cost of the facility can be used for repairs, maintenance, and replacement of facilities that have exceeded their useful life.
- The Department has currently entered into a development agreement for the development of the haul-out and fuel dock areas within the Ala Wai Small Boat Harbor. The Developer paid an initial development fee of \$150,000 and is currently paying \$15,000 per month while working to obtain the necessary permits. The Department supports offering the remaining site located at the harbor office on a request for proposals (RFP) basis. The Department also supports the leasing of submerged lands similar to the Hawaii and Waikiki yacht clubs. The Department notes that the submerged lands surrounding the haul-out site need to be authorized to be leased. During the preparation of the RFP for the site, the Department found that no authority had been granted to lease the submerged land located at the haul-out area. At a minimum, this area of submerged land needs to be authorized to lease to support the operation.