

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
FINANCE**

**Wednesday, February 29, 2012
1:30 P.M.
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 2398, HOUSE DRAFT 1
RELATING TO LAND USE**

House Bill 2398, House Draft 1 proposes to establish the Honokohau Marina Development District on the Island of Hawaii. The Department of Land and Natural Resources (Department) does not support this measure.

The Department welcomes all potential developers for fast lands in the Honokohau Small Boat Harbor but due to the current economic climate there is little if any interest in developing the surrounding fast lands within the Harbor. The Department would prefer that the Public Land Development Corporation, administratively attached to the Department, develop the property surrounding the harbor because eighty five percent of the proceeds would be deposited into the Boating Special Fund.

To effectively run a statewide small boat harbor program, revenue is shared with small boat harbors that will never be able to generate sufficient revenues to support themselves. Transferring the Honokohau Small Boat Harbor, and its revenues, to a specially created, development district, would have a detrimental effect on the Hawaii District Boating Program as it would reduce funding for other small boat harbors and ramps.

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

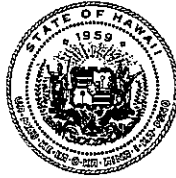
GUY H. KAULUKUKUI
FIRST DEPUTY

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
STATEPARKS

NEIL ABERCROMBIE
GOVERNOR
STATE OF HAWAII



ALBERT "ALAPAKI" NAHALE-A
CHAIRMAN
HAWAIIAN HOMES COMMISSION

MICHELLE K. KAUHANE
DEPUTY TO THE CHAIRMAN

M. WAIKALEALE SARSONA
EXECUTIVE ASSISTANT

STATE OF HAWAII
DEPARTMENT OF HAWAIIAN HOME LANDS

P. O. BOX 1879
HONOLULU, HAWAII 96805

ALAPAKI NAHALE-A, CHAIRMAN
HAWAIIAN HOMES COMMISSION
PROVIDING COMMENTS BEFORE THE HOUSE COMMITTEE
ON FINANCE

HB 2398 HD 1, RELATING TO LAND USE

February 29, 2012

Aloha Chair Oshiro, Vice-Chair Lee, and Members of the Committee:

The Department of Hawaiian Home Lands (DHHL) provides the following comments on HB 2398 HD 1 that proposes the establishment of the Honokohau Marina Development District.

DHHL's inventory includes 200 acres at Honokohau that are designated under project district zoning. We have completed an extensive environmental impact statement for our 200 acres, as well as the potential expansion of the marina to accommodate more slips. We believe the success of a harbor and marina facility is contingent upon the close coordination between the to-be-established authority and DHHL and DLNR for the use of those parcels respectively owned by these two departments. As such, we appreciate that the House Draft 1 identifies DHHL as an entity to be consulted by the authority.

Mahalo for the opportunity to provide comments on this measure.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2398, H.D. 1

February 29, 2012

RELATING TO LAND USE

House Bill No. 2398, H.D. 1, establishes the Honokohau Marina Development District on the island of Hawaii and creates the Honokohau Marina Development Revolving Fund to administer the program.

While the Department of Budget and Finance does not take any position on the policy of establishing the Honokohau Marina Development District, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, 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. In regards to House Bill No. 2398, H.D. 1, it is difficult to determine whether the fund will be self-sustaining.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKA'KO
KALAELOA

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STATEMENT OF

ANTHONY J. H. CHING, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

HOUSE COMMITTEE ON FINANCE

Wednesday, February 29, 2012

1:30 P.M.

State Capitol, Conference Room 308

in consideration of

H. B. 2398, H. D. 1 – RELATING TO LAND USE.

Purpose: Establishes the Honokohau Marina Development District on the island of Hawaii.

Position: The Hawaii Community Development Authority (“HCDA”) takes no position and provides the following comments.

The preamble of the proposal notes that “the Honokohau harbor and marina in Kailua-Kona, county of Hawaii, while created over forty years ago, has never been completed and does not currently serve the needs of the west Hawaii community. Ocean recreational facilities established to serve the boating community are polluting lands and waterways. ... Existing facilities need improvements. The harbor and marina should be redeveloped.” With that context, I provide the following comments.

- The need and objectives of the proposal as described above is consistent with the mission and capacity of the HCDA – to build community where redevelopment is needed.

- The HCDA is willing and able to build community in the community development districts designated by the Legislature.
- Proposed §206E-B(b)(1)(G) specifies that the Authority shall consult with “local civic and community associations”. Clarity requires that these civic and community associations are named.
- Proposed §206E-B(b)(H) further specifies that “local cultural practitioners” are also consulted. For clarity, the proposal should provide more specificity or name the practitioners.
- Proposed §206E-E establishes the Honokohau marina development revolving fund. As there already is established a revolving fund for §206E – the Hawaii Community Development revolving fund, there is no need to establish another fund. All revenue, income and receipts from the Honokohau marina development district would be deposited into this chapter fund to benefit only the Honokohau marina.
- However, as it is my understanding that the Public Land Development Corporation has identified this as its priority project, the HCDA defers to that entity.

Thank you for the opportunity to provide my comments on this proposal.



Kona Hawaiian Civic Club
73-1432 Kahaulani Road
Kailua-Kona HI 96740

February 29, 2012

Testimony by the Kona Hawaiian Civic Club in STRONG OPPOSITION to House Bill 2398HD1, Relating to Land Use

Welina mai Chairman Oshiro and members of the House Finance Committee,

We remain strongly opposed to this proposed legislation, despite the amendments passed by the Water, Land, and Ocean Resources Committees, for the reasons listed below.

That being said, after meeting with the President of the Hawai'i Fishing and Boating Association, Rick Gaffney, we believe that a much better community-based management bill could be written for the next legislative session, one that would enjoy widespread local community support. The first step is to determine whether or not a Honokohau Harbor Community Development District is financially feasible and economically viable. The Kona Hawaiian Civic Club has committed to work with the interests at Honokohua Harbor and throughout the local community to achieve optimal community-based legislation for the management of this sensitive area for the next legislative session.

We are opposed to this legislation for the following reasons:

1. The amended bill allows the three voting members to avoid the State Procurement Code in the first three years of the Honokohau Harbor Development District ("HMDD"). Procurement law is meant to maximize best value, increased economy, ensure fair and equitable treatment of all persons, foster broad-based competition, safeguard the maintenance of a procurement system of quality and integrity, increase public confidence, and protect against abusive practices.

The procurement code is designed to prevent corruption, so we do not understand why the original bill was so amended when there already are a number of exemptions, such as disbursement of grant funds, that would apply to the new authority.

2. HB2398HD1 provides no reasonable assurance that HMDD revenues, income, and other receipts and deposits will be sufficient for the operation, repair and maintenance, and capital improvement of the HMDD. No documentation, plan, or prospectus has been presented to your committee to allow you to perform due diligence as to whether the HMDD is financially feasible and viable in the short- and long-term.

3. While the area of the proposed HMDD has been reduced, it remains directly adjacent to the Kaloko-Honokohau National Historical Park ("Park") and Queen Ka'ahumanu Highway. The Park has been struggling to create a buffer from the extensive commercial development that has been approved on its boundaries, yet the Park is not included as a voting member of the authority.
4. In addition, during the initial Kona Community Development Plan process, 109 meetings were held throughout the community. The comments from those meetings were overwhelmingly in favor of no additional development between Queen Ka'ahumanu Highway and the shoreline north of Kailua-Kona village.
5. HB2398HD1 requires consultation with various persons and entities. However, such consultation in no way provide reasonable assurance that the HMDD will comply with the requests of the consulted parties or to address their concerns.
6. The proposed HMDD remains within the area designated as "Open" by the County of Hawai'i General Plan. This area was down-zoned from "Urban Expansion" to "Open" as a result of a lawsuit settlement with Native Hawaiians, which was approved by both the county Leeward Planning Commission and the Hawai'i County Council. The proposed HMDD would create urban development within this Open designated area and, therefore, would be in violation of the county General Plan.
7. HB2398HD1 reduces the membership of the authority from five to three, making it even less representative of our local community. Further, it excludes all environmental interests as well as cultural practitioners who are not associated with the Park, while making the one cultural practitioner representative a minority vote relative to the business interests represented by marina business owners and operators and harbor boat tenants.
8. HB 2398 states that "Hawaiian archaeological, historic, and cultural sites" and "Endangered species of flora and fauna"..."shall be preserved and protected to the extent feasible". The largest freshwater outflow on the West Hawai'i coastline exits from the shoreline at Honokohau. Damage to constitutionally-protected cultural and environmental resources constitutes "irreparable harm" which provides the basis for a court injunction against any activity which causes such irreparable harm.

Because of the reasons listed above, we are strongly opposed to HB 2398 HD1 to create a Honokohau Marina Development Authority.

This legislation was thrown together only 10 days before the deadline to submit. It is not the result of deliberative community involvement or process.

Again, the Kona Hawaiian Civic Club has committed to work with the interests at Honokohua Harbor and throughout the local community to achieve optimal community-based legislation for the management of this sensitive area for the next legislative session.

Sincerely,
Maurice Kahawaii, President

RICK GAFFNEY

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COMMITTEE ON FINANCE

Rep. Marcus R. Oshiro, Chair

Rep. Marilyn B. Lee, Vice Chair

Wednesday, February 29, 2012, 1: 30 PM
Room 308

Support for HB 2398 HD1--Honokohau Marina Development District

HB 2398 HD1 offers a viable alternative management paradigm which should be given full consideration by the legislature, as a fix to a long festering problem in Hawaii's small boat harbors.

I was born and raised in Hawaii and have been actively involved in Hawaii's ocean recreation community and boating industry for over 50 years. Through that entire half-century, I have been dismayed that the State of Hawaii has never been able to adequately and successfully manage its boating facilities.

There has been a whole string of legislative audits, dating back into the 1970's, that strongly support that statement. Hawaii's Department of Land & Natural Resources, Division of Boating and Ocean Recreation is clearly failing in its mission.

HB2398 HD 1 suggests an alternative management regime and should be embraced by the legislature for that reason alone.

Since the day when the State of Hawaii and US Army Corps of Engineers committed to provide a harbor of safe refuge for the boaters of West Hawaii, the harbor has been poorly managed and remains incomplete.

DOBOR committed to the most substantially commercial small boat harbor in its statewide network by allowing nearly half of the berths to be utilized by commercial operators and allowing the adjacent development of Gentry's Kona Marina, the most complete full service boat yard in the State. However, this enterprise center for some 250 small businesses in West Hawaii suffers from inept, non-responsive management, preposterous rules, burdensome

commercial requirements, failing infrastructure, filthy restrooms, over-flowing trash containers and dusty parking areas.

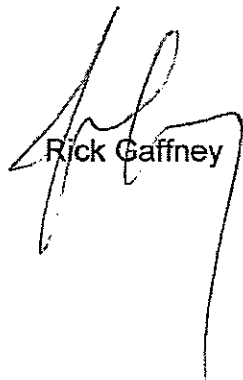
Honokohau Harbor is the single most important gateway to the ocean for West Hawaii's recreational boaters, one man canoe paddlers, sailors, commercial fishermen, charter boat operators, the dive industry, tour boats and many others, yet it is in worse shape than many third world marinas, is an embarrassment to our ocean community and is not generating the tax revenues and economic benefits that it could.

DOBOR is standing in the way of Hawaii realizing her destiny as an ocean state.

The West Hawai community is ready, willing and able to embrace community based-management of her boating facilities, in cooperation with existing business, the adjacent Kaloko-Honokohau National Park, the native Hawaiian community and a broad cross section of community groups.

Please vote to move HB2398 HD1 out of the Committee on Finance.

Mahalo,



Rick Gaffney

To the House Finance Committee
Chair, Marcus Oshiro
Wednesday, February 29, 2012
1:30 pm., room # 308

HB 2398, HD 1
Relating to Land Use -- Honokohau marina development
OPPOSE

Greetings to the Chair and Members of the Finance Committee:

I am a resident of Kona, Hawaii island, and appear today to oppose this bill. I did send testimony to the previous committee hearing.

If bathrooms have need of cleaning, or paint; if rubbish containers need emptying; or a program of regular maintenance and repair work needs doing at the harbor, --- then a capital improvements appropriation is in order --- to the Department of Land & Natural Resources.

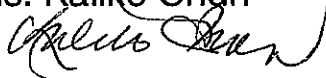
Honokohau is designated as a small boat harbor. It has been such since the first blast into the rock and shoreline interior. There was no natural harbor in the area, but nevermind. Ignore the Hawaiians who advised against creating the harbor. Kailua and Keauhou are the natural bays that harbor boats to the south. Kawaihae Harbor and small boat harbor are to the north. Honokohau harbor is a mistake --- in location, in engineering judgment. Please do not compound the error by allowing a select few to do a land grab with harbor, and other people's money. To add to this grab, the bill throws in an exemption from procurement, to be helpful to "...economically beneficial enterprise."

According to the committee report, a purpose of this bill is "...eliminating the current water pollution that is spreading..." **The pollution is caused by harbor use and activity.** To think that a harbor needs to be a marina facility the success of which is, and i quote from the bill, page two, "...contingent upon the use of the property for complementary, supportive, marina-related services, facilities, and activities.", and that all this will eliminate pollution --- is contradictory and delusional.. However, the excuse is provided with the words "...to the extent feasible..." (HB 2398, HD 1)

What is most important here is the enduring true value of the aina of the ahupua'a of Honokohau and Kaloko --- cultural values dependent upon cultural resources, intertwined and expressed in the cultural landscape, which you will **not** see with redevelopment/marina development. The Kaloko-Honokohau National Historical Park has a mandate of preservation, protection, conservation, and restoration of cultural resources and practices, which become living values. The harbor not only abuts the Park, portions are within the boundaries of the Park. The perspective for the use of this area, **must** come from the perspective of the unique cultural landscape of this aina.

Thank you Chair and Committee, for the opportunity to make these remarks. I do so at the request of my kupuna.

Ms. Kaliko Chun

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

Monday, February 06, 2012

Chairs Rep. Jerry Chang and Rep. Faye Hanohano

Joint Committees on Water, Land, Ocean Resources and Hawaiian Affairs

HB 2398 Relating to Land Use

Establishes the Honokohau marina development district on the island of Hawaii

OPPOSE

The premise of the bill is that Honokohau harbor is not good enough for some people, and those people want the government to give them control of the harbor and '...adjacent real property...' with \$\$\$, of course. After all, they know best to "showcase Kailua-Kona." As what, i wonder ?? San Diego ? somewhere else in California ? Florida, perhaps ?

in the 1970s, in spite of loud and strong opposition by so many, some of whom came to kona by the busload to protest the development of the now, existing small boat harbor; the harbor was blasted out of a parcel of shoreline and interior at Honokohau, a site on the National Register of Historic Sites: the Honokohau Settlement. Thus was added yet another hawaiian place, of very significant archaeological, cultural, historical resources, to the tension of loss. This tension spurred the urgency to protect and preserve as much as possible, which gave impetus and genesis to the Kaloko-Honokohau National Historical Park. To save -- what remains. The original boundary on the north side would probably have included Ooma, and the Park in later years did try to purchase some acreage from the private owner. On the south side, the Park boundaries are on the Kailua side of the harbor.

There are four national parks on Hawaii island, three of which are on the west Hawaii coast. The Kaloko-Honokohau NHP is the only one to include approximately 600 acres of marine environment and resources beyond the shoreline. Further development of the harbor will put resources at risk: degrade the coral reef and habitat for marine animals (the green sea turtle, varieties of fish and invertebrates,) contaminate the ground-water and surface-water; bring more threats of invasive plants and algae; assuredly bring

fishing pressure; (and this bill wants to showcase premium sportfishing ? all fishing will undergo pressure.) bring oil releases, debris, illegal dumping, damage to reef resources. On land, there is degradation to the rare ecosystem for dryland forest flora; negative impact to the wetlands rare breeding habitats for endangered stilts and coots; negative impact and degradation to the archaeological, cultural, historical resources and sites of the cultural landscape.

The cultural landscape is the true showcase --- each feature singular, unique; the whole, unique. The great Kaloko Fishpond dates to the 15th century, and has walls like none other. This bill would sacrifice a unique cultural landscape for a marina development.

NO.

Mahalo,
kaliko chun

Kaliko Chun
Hona Resident

FINTestimony

From: mailinglist@capitol.hawaii.gov
ent: Monday, February 27, 2012 2:38 PM
To: FINTestimony
Cc: philferna@gmail.com
Subject: Testimony for HB2398 on 2/29/2012 1:30:00 PM

Testimony for FIN 2/29/2012 1:30:00 PM HB2398

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Philip Fernandez
Organization: Individual
E-mail: philferna@gmail.com
Submitted on: 2/27/2012

Comments:

Dear Rep Oshiro, Rep Lee, and members of the Finance Committee:

I oppose this bill and ask you to oppose this bill.

The bill is unfairly weighed to benefit a small group of harbor users. It will benefit the moorage tenants and operators of businesses at the harbor. Recreational fishers who launch boats at the harbor are not represented. Likewise, recreational kayak users and other recreational users are not represented.

Any consultation with the Hawaiian Boating and Fishing Association will be biased, as this organization was formed to oppose DLNR's proposal to impose a parking fee within the harbor area.

While the concept of a harbor management authority may be sound, the implementation as it is proposed in this bill is wrong.

Thank you.