

DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU

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February 13, 2012

The Honorable Donovan M. Dela Cruz, Chair
and Committee Members
Committee on Water, Land, and Housing
State Senate
State of Hawaii
State Capitol, Room 202
Honolulu, Hawaii 96813

The Honorable Clayton Hee, Chair
and Committee Members
Committee on Judiciary and Labor
State Senate
State of Hawaii
State Capitol, Room 407
Honolulu, Hawaii 96813

Dear Chair Dela Cruz, Chair Hee and Committee Members:

Subject: S.B. No. 2851, Relating to Vessels

The City and County of Honolulu Department of Facility Maintenance is opposed to S.B. No. 2851, which seeks to transfer the responsibility for abandoned vessels from the State Department of Land and Natural Resources to the counties when the vessels are abandoned on public property within the county's jurisdiction or to private property owners when the vessels are abandoned on privately owned property.

Currently, the State Department of Land and Natural Resources (DLNR) is responsible for investigating, removing, disposing or auctioning abandoned vessels in the State of Hawaii. The DLNR regulates vessels and administers a vessel registration program that documents ownership of vessels and collects fees for all registered vessels in the State of Hawaii. This bill which seeks to transfer the responsibility to investigate, remove, dispose or auction vessels which may be abandoned to the counties or owners of property who do not have access to vessel ownership records; no statutory authority is provided for the counties or private property owners to obtain vessel information maintained by the DLNR or US Coast Guard that is necessary in order to investigate the ownership, registration status or disposition of the possible abandoned vessel.

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The bill is also flawed since it identifies that the decision of whether a vessel is abandoned may be made by only the chairperson of DLNR for property under DLNR's jurisdiction, state department or agency through its director for property under that State agency's jurisdiction, or mayor or chief of police with regard to vessels abandoned on public property in the county's jurisdiction. The bill does not identify who will decide whether a vessel is abandoned on privately owned property. Previously the chairperson of DLNR decided whether any vessel is abandoned.

When a vessel is taken into custody by the county, the bill requires that a written notice is posted on the vessel and a duplicate sent by registered or certified mail to any owner registered with the department or US Coast Guard. Since the counties do not maintain the vessel ownership registration, these records must be made available to the counties so that timely notifications can be made. The bill also requires an administrative hearing, however the counties do not have administrative rules for holding these hearings.

The bill requires that the county follow specific costly requirements to notify the vessel owner, remove, impound, ascertain value and dispose of or hold an auction for the possible abandoned vessel depending on the value of the vessel. Expenses will need to be documented for the investigation, removal, impoundment, appraisal and auctioning of the vessel with all proceeds exceeding the expenses incurred to be paid to the State Dept of Land and Natural Resources. The bill also requires expenses for vessels that are disposed or that do not equal or exceed the auction costs to be borne by the counties or private property owners. The costs borne by the counties or private property owners to address a State regulated program is an unfunded mandate that is inappropriate.

We appreciate the opportunity to provide testimony on this important legislation.

Sincerely,


Westley K.C. Chun, Ph.D., P.E., BCEE
Director and Chief Engineer