

HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

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Rep. Sharon E. Har, Vice Chair

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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Denny Coffman, Chair  
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Rep. Rida T.R. Cabanilla	Rep. Ken Ito
Rep. Mele Carroll	Rep. Mark M. Nakashima
Rep. Jerry L. Chang	Rep. Gil Riviere
Rep. Sharon E. Har	Rep. Cynthia Thielen
Rep. Robert N. Herkes	

NOTICE OF HEARING

DATE: Wednesday, March 21, 2012  
TIME: 11:15 a.m.  
PLACE: Conference Room 325  
State Capitol  
415 South Beretania Street

Testimony in opposition to SB580 – with added comments/ suggestions

Hawaii Nearshore Fishermen are opposed to SB580 – specifically section 190-A Conservation districts established island of Maui.

This section directs the DLNR to establish “two additional MLCD’s – each on extending three miles or less from the shoreline.

1. Without demonstrated merit, discussion, goals, or geographic boundary, the department must establish two more MLCD’s in Maui waters, statutorily, – independent of the department’s own chapter 91 rule making process which requires a public process, scoping, hearings and public engagement as is normal for MLCD’s.
2. Calls for these two new MLCD’s without understanding what existing MLCD’s do.

Although the fishermen are fully opposed to this edict of establishing two new MLCD’s, this bill highlights a needed discussion regarding MLCD’s and their usefulness. For example, section 190-B

includes a mandate for DLNR to conduct 5 year reviews of MLCD's. This is positive and actually, a step in the right direction.

We would go a step further by recommending:

- Periodic performance reviews of all managed areas and then change, or remove areas based on need – through chapter 91 process
- Apply a sunset date to be included as corrective action should the department not meet its review requirements
- Report to legislature on year following the 5 year period

Furthermore, an adequate analysis and review (for effectiveness ) would not be possible without a Department of Aquatics Division – A stand alone division solely dedicated to Aquatic Resources.

- Division of Aquatic Resource as a stand alone Division is imperative.

The fishermen are opposed to the creations of more MLCD's – there are enough no fishing zones as it is and without review and analysis, the fishing as well as non-fishing impacts to the resource within MLCD's will never be known.

Thank you for taking this testimony.

Respectfully submitted,

Tony Costa

Hawaii Nearshore Fishermen

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 6:18 PM  
**To:** WLOtestimony  
**Cc:** alohashellservice@hawaii.rr.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Paul Hanada  
Organization: Individual  
E-mail: [alohashellservice@hawaii.rr.com](mailto:alohashellservice@hawaii.rr.com)  
Submitted on: 3/20/2012

Comments:

Although I support protection of our natural resources, I do not support this bill. Creating a marine conservation area 3 miles in diameter from the island of Molokini will extend into prime fishing areas. I have bottom fished, spearfished and troll fished this area for almost 50 years. Now my sons and grand sons fish this area. This bill is too general and encompassing and will have a negative impact on fishermen like us who depend on our catch to feed our families. Please do NOT allow this bill to proceed. Thank you.

To: House WLO Committee,

From: Darrell Tanaka  
Haiku, Maui

Re: **SB580**

**In Opposition**

Creating more marine reserves will only make things worse for maui reefs as fishermen will be forced into even smaller fishing areas. Without new regulations such as bag limits, open areas will be subjected to increased plunder because of this measure...things will actually get worse by making more marine reserves. Enforcement is so lacking that even Ahihi Kinau, the greatest reserve in our state, is plundered by poachers and the game fish there are absent. There are many other ways to save Maui's reefs, this is not one of them. If the state cannot take care of the marine reserves it already has, then all you will be doing with this measure is creating more private fishing areas for poachers....I strongly oppose this.

Respectfully submitted,  
Darrell Tanaka  
Maui

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 2:47 PM  
**To:** WLOtestimony  
**Cc:** bsagawinit@yahoo.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Bruce A. Sagawinit  
Organization: Individual  
E-mail: [bsagawinit@yahoo.com](mailto:bsagawinit@yahoo.com)  
Submitted on: 3/20/2012

Comments:  
I support the proposed HD1.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 1:08 PM  
**To:** WLOtestimony  
**Cc:** farwest@hawaii.rr.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Michael Morelli  
Organization: Individual  
E-mail: [farwest@hawaii.rr.com](mailto:farwest@hawaii.rr.com)  
Submitted on: 3/20/2012

Comments:  
I support this bill

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 12:08 PM  
**To:** WLOtestimony  
**Cc:** hapahaole@tripleb.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Paul Bartram  
Organization: Individual  
E-mail: [hapahaole@tripleb.com](mailto:hapahaole@tripleb.com)  
Submitted on: 3/20/2012

Comments:  
I support the proposed HD1.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 12:06 PM  
**To:** WLOtestimony  
**Cc:** marlin564@yahoo.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Gary Dill  
Organization: Individual  
E-mail: [marlin564@yahoo.com](mailto:marlin564@yahoo.com)  
Submitted on: 3/20/2012

Comments:  
I fully support the proposed HD 1.



**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 12:06 PM  
**To:** WLOtestimony  
**Cc:** papafarm@htchawaii.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Frank Farm Jr.  
Organization: Individual  
E-mail: [papafarm@htchawaii.com](mailto:papafarm@htchawaii.com)  
Submitted on: 3/20/2012

Comments:  
Strong support for establishing statutorily DAR under DLNR.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:00 AM  
**To:** WLOtestimony  
**Cc:** papafarm@hawaii.rr.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position:  
Testifier will be present: Yes  
Submitted by: Frank Farm  
Organization: Individual  
E-mail: [papafarm@hawaii.rr.com](mailto:papafarm@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

The proposed bill for MLCDS is viewed with mixed feelings. It lacks certain information as to location, size, and other relevant information, including the anticipated benefits. Strongly support a 5 year review of any new (or existing ) MLCDS as to status by legislature.”. Some other restricted areas that had this requirement via BLNR resulted in removal of requiring report. As a result there is no knowledge of accomplishment in the closed area. If no report/review , consider result with a “sunset or drop dead”. If a suggested area is not providing the desired results, then it should be opened again.

Consideration that this proposal go via Chapter 91, for more transparency as to details, and hearings to stakeholders.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 10:27 AM  
**To:** WLOtestimony  
**Cc:** jackie@alaskareel.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: jackie yamada  
Organization: Individual  
E-mail: [jackie@alaskareel.com](mailto:jackie@alaskareel.com)  
Submitted on: 3/20/2012

Comments:  
I support the proposed HD1

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 10:22 AM  
**To:** WLOtestimony  
**Cc:** cberg@pixi.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Dr. Carl J. Berg  
Organization: Individual  
E-mail: [cberg@pixi.com](mailto:cberg@pixi.com)  
Submitted on: 3/20/2012

Comments:

To: Representatives Coffman, Chair, Representative Kawakami, Vice Chair, and members of the Committee on Energy and Environmental Protection

From: Carl J. Berg, Ph.D. marine ecologist  
Subject: Support for SB 580, SD2, proposed HD1

Dear Committee Members,

I strongly support the passage of the subject HD1 because the Hawaii Division of Aquatic Resources is the only Division within DLNR with the expertise and scientific background to effectively protect the freshwater and marine natural resources of this State.

The passage of SB 580, SD2, proposed HD1, will improve chances that both Hawaii's precious forested watersheds are protected and that our precious public water trust resources: our streams and rivers, are also protected, conserved and their fishery resources restored. By restoring the biological integrity of our streams and rivers we will see a significant increase in fisheries productivity, in both our stream/rivers ecosystems and in our nearshore marine fisheries as well.

Respectfully submitted

Dr. Carl J. Berg  
2637 Apapane St.  
Lihue, Kauai, Hawaii 96766

To: Representatives Coffman, Chair, Representative Kawakami, Vice Chair, and members of the Committee on Energy and Environmental Protection

From: Donald E. Heacock, professional fisheries biologist

**Subject: Support for SB 580, SD2, proposed HD1**

Dear Committee Members,

I strongly support the passage of the subject HD1 because the Hawaii Division of Aquatic Resources, which is tasked to "conserve, protect, and to restore the living aquatic resources and their habitats in the state of Hawaii", is the only division within the DLNR that has the academic and scientific expertise to manage Hawaii's complex fisheries and their habitats: streams, rivers, estuaries, coral reefs and other marine habitats.

Finally, the passage of SB 580, SD2, proposed HD1, will assure that both Hawaii's precious forested watersheds are protected and that our precious public water trust resources: our streams and rivers, are also protected, conserved and their fishery resources restored. By restoring the biological integrity of our streams and rivers we will see a significant increase in fisheries productivity, in both our stream/rivers ecosystems and in our nearshore marine fisheries as well.

Sincere Aloha,

Donald E. Heacock, Fishery Biologist  
P.O. Box 1323  
Lihue, Kauai, Hawaii 96766

20 March 2012, 9am

Testimony Re: SB580 SD2 Proposed HD1 Relating to Aquatic Life

**Comments, Positions and Amendments.**

- 1. Oppose PART I Section 2 subsection 190-A** as it proposes to establish two additional conservation districts on the island of Maui statutorily thus bypassing the general administrative rule-making process provided to the department of land and natural resources as provided by the Legislature in HRS Chapter 91 Administrative Procedure. There are no specifics as to the current marine life assessment, the locations, the marine life that is to be conserved and why statutorily without public informational meetings and hearings as “normally” conducted by the department of land and natural resources under the HRS Chapter 91 Administrative Rule process.
- 2. Support PART I Section 2 subsection 190B with amendment, renaming to subsection 190-A by deleting the currently proposed language and replacing it with the following:** “Section 190-A A current review of the effectiveness of the two existing marine life conservation districts on Maui, and such reviews be conducted every five (5) years by the department of land and natural resources and shall be a product of community participation through the HRS Chapter 91 process with public informational meetings and hearings. The department shall submit a report of its findings and recommendations based on its review to the legislature no later than twenty days prior to the convening of the regular session following the review, beginning with the regular session of 2013. The department shall also submit the dates establishing the existing management areas, provide copies of previous reports and recommendations based upon previous reviews for effectiveness, and submit a schedule of the next scheduled management area reviews.”
- 3. Amend PART I Section 3 by replacing the currently proposed language with the following:** For purposes of section 190-A, Hawaii Revised Statutes, the review and report shall be a product of community involvement including collaboration among the department of land and natural resources and other affected or interested parties.

**General Comments and Background Information Regarding PART I:**

The Department of Land and Natural Resources (DLNR) has not provided the public reviews regarding the effectiveness of the currently established marine life conservation districts and similar restrictive management areas. As such, many areas remain closed regardless of whether they are achieving the intended management success or not. Many were established without a baseline reference from which to measure their effectiveness and therefore remain problematic and unfair to the public because access is restricted without sunset dates. If allowed to perpetuate, these areas will have been closed and not available to the public for infinity.

An example of the such an inequity is with the Bottomfish Restricted Fishing Areas (BRFA) that were established to address a suspected overfishing condition of onaga (*Etelis coruscans*) and opakapaka (*Pristipomoides filamentosus*) in the main Hawaiian Islands that closed portions of the bottomfish fishing areas around the State in 1998. This particular rule included a provision for a five year review and report to the affected bottomfish fishermen. That review and report has not happened or provided to date. Additionally, the Land Board arbitrarily removed the specific language requiring that five year review and report requirement in 2010, denying the fishermen the results of a review and report on the efficacy of the BRFA even after 12 years. This is a key reason why having the statutory language in the recommended Section 190-A requiring the DLNR to report to the legislature is necessary.

Additionally, by having this standard of review and reporting ensures against the proliferation of closing areas to certain segments of the community without accountability.

#### **5. Strongly Support SB580 SD2 Proposed HD1 PART II and Part III**

The need for a strong division of aquatic resources is addressed in Part II by statutorily establishing the division of aquatic resources (DAR) under the DLNR.

This explicit statutory provision is essential in remedying the continued erosion of management direction and efficacy of the division, as exemplified by the numerous bills introduced each legislative session requesting the initiation of statutory resource management measures that should have been accomplished through the HRS Chapter 91 Administrative Rule making process had the division been able to perform its duties and functions. The administrator vacancy for nearly three years and numerous unfilled funded positions have seriously eroded the division's ability to fulfill its mission.

This action is further necessitated by the department's proposal to consolidate DAR into the division of forestry and wildlife (DOFAW).

**Comments regarding the DAR/DOFAW Consolidation** – The critical importance of having the functional separation of DAR and the DOFAW was the establishment of these separate divisions during the 1970's and remains essential to the success of each of these specialized areas of responsibility and accountability. Having properly qualified administrators with the specific education, background and skills for both divisions are key to Hawai'i's sustainability future and cannot be marginalized by the perceived opportunity to save on the cost of one key administrator. Reality says that the position or the funding will be used in another area at the cost and loss to DAR.

The ocean provides a key component toward food sustainability and we cannot allow the marginalization of DAR through the proposed consolidation. Past administrations have eviscerated DAR's capacity to do its proper job as noted above by limiting their ability to perform stock assessments, monitor management measures, and in basically, "do their job" effectively. This failure of proper administration has hurt our ability to identify and quantify aquatic resource abundance to implement appropriate management measures as required by our State Constitution.

We have also ignored including aquatic resources along with agricultural commodities in the basket of available natural resources necessary for our State's food sustainability. We cannot allow this myopic perspective continue otherwise Hawai'i will suffer greatly through a growing dependence on imported seafood. Please give the Division the qualified leadership and funds to effectively manage one of our key resources. Mahalo.

Respectfully,  
Roy Morioka – a Hawai'i Fisherman

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 19, 2012 8:10 PM  
**To:** WLOtestimony  
**Cc:** mjellings@hawaii.rr.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: ellings Sr  
Organization: Individual  
E-mail: [mjellings@hawaii.rr.com](mailto:mjellings@hawaii.rr.com)  
Submitted on: 3/19/2012

Comments:

In support of proposed HD 1 Part two only.

Carl P Jellings Sr



**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 21, 2012 8:03 AM  
**To:** WLOtestimony  
**Cc:** thomas.k.ogawa@hawaii.gov  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Tom Ogawa  
Organization: Division of Aquatic Resources  
E-mail: [thomas.k.ogawa@hawaii.gov](mailto:thomas.k.ogawa@hawaii.gov)  
Submitted on: 3/21/2012

**Comments:**

I question the reasons for expanding the Honolulu and Molokini MLCs to three miles from shore. The MLCs were originally designated mainly to protect the nearshore ecosystem from resource exploitation (overfishing) as well as enhance adjacent ecosystems (species spillover). Extending the boundaries of the MLCs will not benefit the nearshore ecosystems any further and will also restrict the use of offshore fishing grounds (eg. bottom fish, Kona crabs, pelagic fish, etc). The proposed expansion will effectively cause much resistance from the fishing community who, in their minds, have already sacrificed some prime fishing grounds. From a viewpoint of a fisheries ecologist, I would recommend deleting this part of the bill and save the State from unnecessary backlash from the community.

Rep. Jerry Chang, Chair  
Rep. Sharon Har, Vice Chair  
Committee on Water, Land, & Ocean Resources

Wednesday, March 21, 2012

**Regarding SB580, proposed HD1, relating to Aquatic Life**

I am testifying in opposition to section 1 of SB580, proposed HD1, and in support of section 2 of this bill.

As a commercial fisherman, I am concerned that, year after year, it seems as though less and less effort is being put into properly managing and sustaining our nearshore environment. As our population increases, more and more pressure is being put on our resources, and better management of our fisheries is needed now more than ever if we are to maintain fishing as a way of life. As such, I support section 2 of the proposed House Draft 1 of this bill. Moving this bill forward will provide an important opportunity for discussion on the future of resource management in Hawaii.

However, I must voice my opposition to section 1 of this bill. The Department already has the authority to create MLCs where necessary. If more are needed on Maui, why would they not have done so already? More importantly, the list of organizations that DLNR is required to consult with is substantially flawed. One of the groups, for instance, is only active on Kauai, and therefore should have no input regarding activities on another island. Another is an animal rights group. For any sort of conservation measure to succeed, it must have the input of the fishing community on Maui and other ocean users in the area that will be affected, not a piecemeal assortment of NGOs. At the very least, this section should be removed if the bill is to be moved forward.

Thank you for the opportunity to testify,



Matthew Ross

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 6:52 PM  
**To:** WLOtestimony  
**Cc:** Cindy@hawaiigoesfishing.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Cynthia Paliracio  
Organization: Individual  
E-mail; [Cindy@hawaiigoesfishing.com](mailto:Cindy@hawaiigoesfishing.com)  
Submitted on: 3/20/2012

Comments:  
I support the proposed HD1

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 6:48 PM  
**To:** WLOtestimony  
**Cc:** bobbyandwendy@hawaii.rr.com  
**Subject:** Testimony for SB580 on 3/21/2012 11:15:00 AM

Testimony for WLO 3/21/2012 11:15:00 AM SB580

Conference room: 325  
Testifier position: Comments Only  
Testifier will be present: No  
Submitted by: Bobby Alipio  
Organization: Individual  
E-mail: [bobbyandwendy@hawaii.rr.com](mailto:bobbyandwendy@hawaii.rr.com)  
Submitted on: 3/20/2012

Comments:  
I support the proposed HD1.