

# SB180

## SB180 SD1 [\(?\)](#)

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**Measure Title:** RELATING TO OCEAN MANAGEMENT.  
**Report Title:** Konohiki Rights; Niihau  
**Description:** Vests in the village elder who is domiciled on Niihau exclusive konohiki rights. (SD1)  
**Companion:**  
**Package:** None  
**Current Referral:** WTL  
**Introducer(s):** GALUTERIA

<a href="#">Sort by Date</a>		Status Text
1/17/2013	S	Introduced.
1/17/2013	S	Passed First Reading.
1/22/2013	S	Referred to WTL.
12/18/2013	D	Carried over to 2014 Regular Session.
2/6/2014	S	The committee(s) on WTL will hold a public decision making on 02-07-14 1:46PM in conference room 225.

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 Senate Committee on  
WATER AND LAND**

**February 14, 2014, Friday  
10:05 AM  
State Capitol, Conference Room 211**

**In consideration of  
SENATE BILL 180, SENATE DRAFT 1  
RELATING TO OCEAN MANAGEMENT**

Senate Bill 180, Senate Draft 1, proposes to vest in the village elder who is domiciled on Niihau exclusive konohiki rights. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department is aware that the issue of konohiki rights for places like Niihau was discussed by the Aha Moku Advisory Committee. This is a complex issue that needs to have further discussions in the community.

As the Legislature is aware, the Department is also developing a management plan for the waters around Niihau and will be implementing this plan through our rule making authority.

The Department looks forward to working with the Legislature and the Aha Moku Advisory Committee on the issue of konohiki rights and the management plan for Niihau.

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

**ESTHER KIA'AINA**  
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  
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HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

COMMITTEE ON WATER AND LAND  
Senator Malama Solomon, Chair  
Senator Brickwood Galuteria, Vice Chair

Friday, February 14, 2013  
1:15 pm  
Room 225

TESTIMONY OF JAMES E COON PRESIDENT OF OTC  
SPEAKING IN **OPPOSITION** to **SB 2877**

Chair Solomon, Vice Chair GALUTERIA, Members of WTL Committee:

Aloha,

My name is Jim Coon. I am the President of the Ocean Tourism Coalition, representing the Charter Boat industry across the state, **speaking in opposition to SB 2877 as written**. We foresee a multitude of problems if it is passed as is it currently written. The text of SB 2877 is as follows:

**“(b) No use permit may be transferred unless specifically provided by law. For purposes of this section, the term “transfer” includes *any change in control, by whatever means, of any entity that owns or controls, directly or indirectly, a use permit.*”**

The SB 2877 text is very confusing and ambiguous because it is too broad and could be interpreted to encompass a variety of circumstances where there is arguably a “change in control”:

- Change in the company leadership, composition of the board of directors or LLC managing member.
- Incapacity or incompetence of majority owner necessitating having a family member or manager operate the day to day business.
- Death, divorce, or marriage.
- Change in administration of Employee Stock Ownership Plans
- Any stock transfer or interest between husband and wife, reciprocal beneficiaries, or parent and child which only nominal consideration is paid.
- Banking agreements, including loan guarantees giving the bank control in certain circumstances.
- Change in stock ownership of corporate parent several times removed.
- Certain Hotel contracts which require the Hotel to have control on operations that are exclusive for their guests.

For each of these examples, what metrics will be used to determine if there is a change of control? Is control considered 51%? Do “silent partners” or holders of a majority share of stock have control even if they take no part in the business? What if there is a disagreement in interpretations; for example, what happens if DOBOR’s interpretation of control differs from an IRS or State tax department interpretation?

This bill would add uncertainty and complications to our small businesses. It would make bank financing more difficult to obtain. It would increase our legal fees to ensure correct compliance of the law. It will cost more for DOBOR to administer. It would create an unnecessary reporting burden on small businesses. It would put DOBOR/DLNR auditors in our homes and offices as we are making decisions putting the burden of proof of who was in control of each small business.

We are just coming out of several years of hard times for most of the small businesses in Hawaii. This is a time to create more certainty and foster a stable business environment, to send a message that Government wants to help you survive not make your life more difficult.

We hope these changes can either be incorporated or that SB 2877 goes no further.

Sincerely,

James “Captain Jim” Coon,  
President The Ocean Tourism Coalition (OTC)



## **Association of Hawaiian Civic Clubs**

P. O. Box 1135  
Honolulu, Hawai`i 96807

### SENATE COMMITTEE ON WATER AND LAND

#### SB 180, SD1 (SSCR2141) RELATING TO OCEAN MANAGEMENT

Friday, 2/14/14; 10:05 a.m.; Room 211

Aloha Madam Chair Solomon, Vice Chair Galuteria and members of the Senate Committee on Water and Land. I am Soulee Stroud, president of the Association of Hawaiian Civic Clubs here to testify in support of this bill that would re-establish the Konohiki system on the Island of Niihau.

While we remain bitterly disappointed in those fishermen of Hawaii that would disregard long-held tradition and raid Niihau food resources, we support the return of another tradition – that of a konohiki for the Island.

The konohiki of old regulated the taking of marine life adjacent to an ahupua`a, always aware of seasonal fishing, abundance or lack of fish stock and/or species, and generally managing the fishery to the benefit of ahupua`a tenants. In this case, it would be the residents of Niihau.

We would hope that the konohiki is deputized to provide warnings and make arrests, punishable by appropriate konohiki law. We believe that the only way to stop the raiding of Niihau's food resources is to enact this bill and enforce it through the Konohiki.

Thank you for the opportunity to testify in support of a Konohiki for Niihau.

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**Date:** Friday, February 07, 2014 11:58:20 AM

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**SB180**

Submitted on: 2/7/2014

Testimony for WTL on Feb 7, 2014 13:46PM in Conference Room 225

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Charles Prentiss	Individual	Oppose	No

Comments: This bill may assign legal governmental rights to individuals or areas not authorized by the Hawaii Constitution. A more appropriate way to manage fishing areas would be to use existing legal State and Federal fisheries management procedures.

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**SB180**

Submitted on: 2/12/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Ramos	Individual	Support	No

Comments:

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**SB180**

Submitted on: 2/13/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
EDWIN RAY A'ALONA DELA CRUZ	Individual	Oppose	No

Comments: i oppose

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**SB180**

Submitted on: 2/12/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Greg Holzman	Individual	Oppose	No

Comments: All Bills related to Niihau fishing and fishery management issues should be deferred until a study is done to find if there is really a depletion of resources around Niihau. We can not in the year 2014 close down the waters which are public domain within the framework of the State constitution, if a person believes sea life is depleted. This effects too many fishermen to do this without some scientific proof. and a fishery plan which is fair and balanced. We as fishermen know the intent is to close down Niihau waters to people who do not live there by the Robinson's. Please get the fishery Data and then deal with the problem based on best fishery management practice..

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**SB180**

Submitted on: 2/13/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Ian Amaki	Individual	Oppose	Yes

Comments: Aloha my name is Ian Amaki I am born an raised on the island of Kauai. I feel the closer of the whole island of niihau is selfish. And being that there is only a few left on the island why would you need the natural resources of a whole island for a small population. Why can't we work out a solution for both party's by a partial shut down there are some areas that the people of niihau can't even get to that I like to fish. Thank you for taking the time to read my comment

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**SB180**

Submitted on: 2/13/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kainoa Lum	Individual	Comments Only	No

Comments: Aloha I am a local resident of the island of Kauai, I've enjoyed from a child till present day going over to the island of Niihau to fish, and nowadays I enjoy spearfishing. I feel that we are all citizens and it is our right to fish and have access to our resources not only for the residents of Niihau but also for other neighboring islands that get a chance to go there to do so. I would highly recommend maybe prohibiting the area around the village where the islanders of Niihau live and keep that off limits from outsiders coming in to fish and dive in that area. There are a lot of in accessible areas on the island that are untouched by niihauan residents, and I feel that there is a lot of replenishing of areas that are being touched and used for harvesting of resources due to the weather that impacts the island. It's impossible to go there daily to do so with the rough conditions.

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**SB180**

Submitted on: 2/11/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kapina	Individual	Support	No

Comments:

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In regards to the Konohiki Bill, as a citizen I feel that we all have the right to have access to our ocean resources regardless of race and place of residents. The island of Niihau is part of the County of Kauai we all follow the same rules and regulations of the other islands. We still have no evidence of over fishing and depleted source of opihi created by neighbor island residents at Niihau. I strongly suggest a study on how much fish the 100 Monk seals released on Niihau are eating daily.

Thank you,

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**SB180**

Submitted on: 2/13/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Richard Rosa	Individual	Oppose	No

Comments: I believe that this bill infringes on the rights of all individuals to access and use our natural resources. To allow a land owner to extend his "property" into the ocean is unthinkable. Will all property owners in hawaii be allowed to do this? Robinson intimidates and oppresses the Niihau people. If he was so concerned for them, why doesnt he provide any jobs for them? Why doesnt he open a store on the island for the people? All of the residents on the island collect public assistance and come to Kauai for all their needs. Taking away our rights to enjoy our natural resources is just bad business. It's amazing that politicians from other counties are proposing these bills, must have received quite a few Niihau Shell leis.

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**SB180**

Submitted on: 2/13/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shane Nelsen	Individual	Support	No

Comments: Aloha Chair and Committee Members, As a Maoli from Kealahou Bay, South Kona, Hawaii. I urge this legislation to support the people and cultural lifestyle of Niihau and its traditional practices that include surrounding areas. If we are truly the Aloha State, let us define that to include compassion for the Native Culture/Peoples of Niihau. Mahalo nui for allowing this time to provide testimony.

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**SB180**

Submitted on: 2/13/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Shyla Moon	Individual	Oppose	No

Comments: Aloha, I refuse to accept a system that is given based on no evidence nor research. I'd like to see some statistics that shows we need this to be the solution. From what I gather there is none yet.

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**Date:** Tuesday, February 11, 2014 11:14:27 AM

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**SB180**

Submitted on: 2/11/2014

Testimony for WTL on Feb 14, 2014 10:05AM in Conference Room 211

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Teresa Parsons	Individual	Support	No

Comments: Senators, We must acknowledge and respect Hawaiian traditions, therefore I stand in support of this measure to reserve the fishing grounds from the reefs, from the distance of one geographical mile seaward of the beach at low watermark to be considered the private fishery of the konohiki, whose lands by ancient regulations, belong to the same. Mahalo for allowing submission of testimony in support of SB 180\_SD1.

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