

DAVID Y. IGE
GOVERNOR OF HAWAII



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

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**Testimony of
CARTY S. CHANG
Interim Chairperson**

**Before the House Committee on
WATER & LAND**

**Friday, February 6, 2015
9:00AM
State Capitol, Room 325**

**In consideration of
HOUSE BILL 956
RELATING TO SPECIAL SHORELINE ENCROACHMENT EASEMENTS**

House Bill 956 proposes to provide the Board of Land and Natural Resources (Board) the discretion to grant easements for a value it determines for structures that were authorized by a governmental authority and legally constructed landward of the shoreline within the record boundary of the landward property at the time of construction, but are now located seaward of the shoreline on public land. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

Many of these structures were constructed mauka of the shoreline by private landowners to benefit their property, i.e., as shoreline protection structures. Over the years, many of these structures are now situated within or seaward of the shoreline and are a liability concern. In exchange for the granting of an easement, the Department requires insurance and indemnity protection. The problem under current law is that the Board must charge fair market value as determined by an appraiser for the easement. This bill seeks to remedy that problem by allowing the Board the discretion to grant the easement at below fair market value if the structure was authorized by a governmental authority and originally constructed landward of the shoreline within the record boundary of the landward property at the time of construction, but are now located seaward of the shoreline on public land.

Considering that the structures were originally built on private property, waiving the requirements for prior approval of the Governor and prior authorization from the Legislature pursuant to Section 171-53, Hawaii Revised Statutes (HRS), likely would not compromise the State's fiduciary obligations. In addition, given the volume of easements that are expected to be processed, this exemption would greatly expedite the disposition process. Allowing the easements to be granted at less than fair market value via a streamlined process¹ would assist in encouraging compliance from

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COMMISSION ON WATER RESOURCE MANAGEMENT

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ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
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COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
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littoral landowners entering into easements with the State. By resolving the liability and indemnity issues, taxpayers will have greater protection from potential legal and financial liability against the State with regard to these structures. By facilitating compliance from landowners, this bill will reduce the burden on staff resources from having to pursue enforcement actions.

¹The appraisal process under Section 171-17, HRS, can sometimes be expensive and time consuming.