

SB 2448

Measure Title: RELATING TO INVASIVE SPECIES.

Report Title: Hawaii Invasive Species Council; Invasive Species

Description: Authorizes HISC to adopt rules to change its invasive species list. Authorizes an agent of HISC to enter private property, under specific conditions, to control or eradicate invasive species.

Companion: HB2143

Package: None

Current Referral: EET/WLA, WAM

Introducer(s): KEITH-AGARAN, ENGLISH, GABBARD, GALUTERIA,
KIDANI, NISHIHARA, RIVIERE, SHIMABUKURO, Wakai

JAN 22 2016

A BILL FOR AN ACT

RELATING TO INVASIVE SPECIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 194, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§194- Invasive species list amendment. Without regard
5 to the notice and public hearing requirements of chapter 91, the
6 council may adopt rules to make additions to or deletions from
7 the list identifying invasive species required to be maintained
8 in section 194-2(a)(6); provided that the council shall adopt
9 rules pursuant to chapter 91 to establish methods to obtain
10 public input and notify the public of additions to or deletions
11 from the list identifying invasive species required to be
12 maintained in section 194-2(a)(6)."

13 SECTION 2. Section 194-5, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Whenever any invasive species identified by the
16 council for control or eradication is found on private property,
17 a department or its agent may enter [~~such~~] the affected premises



1 to control or eradicate the invasive species after reasonable
2 notice is given to the owner of the property and, if entry is
3 refused, pursuant to the court order in subsection (d)."

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect upon its approval.
7

INTRODUCED BY:

~~AC. Smith~~

Alan Berg

Michelle Tidani

Clemente

Nick LaRocca

Salvatore

Michael

[Signature]

[Signature]



S.B. NO. 2448

Report Title:

Hawaii Invasive Species Council; Invasive Species

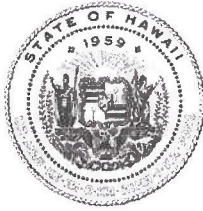
Description:

Authorizes HISC to adopt rules to change its invasive species list. Authorizes an agent of HISC to enter private property, under specific conditions, to control or eradicate invasive species.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



DAVID Y. IGE
GOVERNOR OF
HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committees on
ECONOMIC DEVELOPMENT, ENVIRONMENT, AND TECHNOLOGY
and
WATER, LAND, AND AGRICULTURE**

**Friday, February 12, 2016
1:20 PM
State Capitol, Conference Room 414**

**In consideration of
SENATE BILL 2448
RELATING TO INVASIVE SPECIES**

Senate Bill 2448 proposes to authorize the Hawaii Invasive Species Council (HISC) to adopt and amend rules designating species as invasive without regard to Chapter 91, Hawaii Revised Statutes (HRS), provided that HISC first adopt rules per Chapter 91, HRS, establishing a public notification and input process regarding such designations. **The Department of Land and Natural Resources (Department) supports this measure.**

The Department is the administrative host of the interagency HISC and serves as co-chair along with the Hawaii Department of Agriculture (HDOA). Chapter 194, HRS, requires HISC to identify and record all invasive species in the state, and authorizes HISC to adopt administrative rules to effectuate the chapter.

The development of an official invasive species designation would serve two purposes. First, it would be used as an educational tool to describe species in the state that meet the federal definition of invasive species provided by Executive Order 13112. Second, HISC should have a clear designation for invasive species prior to utilizing its authority to delegate access to private property for the purposes of controlling invasive species, per Section 194-5, HRS. Maintaining this list in administrative rule, rather than by resolution or utilizing a broad definition for the term "invasive species", would provide clear criteria for how HISC could utilize Section 194-5, HRS.

In order to create a dynamic list that can be updated relatively quickly as new invasive species are detected, the HISC has proposed to utilize a listing process similar to that used by HDOA to maintain lists of species that are conditionally approved or restricted for importation into the state. HDOA has authority per Section 150A-6.6, HRS, to adopt rules amending these lists without regard to Chapter 91, HRS, provided that HDOA utilizes a public input and notification process developed in Hawaii Administrative Rules Section 41-71-4.2.

Similarly, this measure would authorize HISC to adopt administrative rules, per Chapter 91, HRS, to establish a public notification and input process for proposed designations. Subsequently, HISC would utilize this process, rather than the procedures described by Chapter 91, HRS, to amend an official list of designated invasive species. Utilizing this process would allow HISC to engage the public in creating and maintaining a list of invasive species that can be updated often to remain current and accurate.

HISC voted unanimously to propose this process at a public meeting on June 10, 2015. The full submittal describing this process can be found on the HISC website at <http://dlnr.hawaii.gov/hisc/files/2015/04/2015-6-10-HISC-Submittal-1-Admin-Rules.pdf>

The Department appreciates the opportunity to provide these comments.

Testimony of The Nature Conservancy of Hawai'i
Supporting S.B. 2448 Relating to Invasive Species
Senate Committee on Economic Development, Environment, and Technology
Senate Committee on Water, Land, and Agriculture
Friday, February 12, 2016, 1:20PM, Room 414

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of the lands and waters upon which life depends. The Conservancy has helped to protect nearly 200,000 acres of natural lands in Hawai'i. We manage 40,000 acres in 14 preserves and work in 19 coastal communities to help protect the near-shore reefs and waters of the main Hawaiian Islands. We forge partnerships with government, private parties and communities to protect Hawai'i's important watershed forests and coral reefs.

The Nature Conservancy supports S.B. 2448 to allow the Hawai'i Invasive Species Council to establish general rules for updating invasive species lists following a reasonable of public notification and opportunity to comment, rather than going through the entire Chapter 91 rulemaking process each time lists need updating.

Invasive weeds, insects, diseases, snakes, and other pests are one of the greatest threats to Hawaii's economy, agriculture, natural environment, and the health and lifestyle of its people. With favorable conditions and limited competition, non-native species arrive in the Hawaiian Islands to find an easy environment in which to thrive. Indeed, the colonization rate of introduced insects and mites in Hawai'i has been estimated at many times the rate of the continental United States. The State agencies working together through the Hawai'i Invasive Species Council need a more efficient process for updating lists of invasive species for effective response, regulation and management.

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Testimony of the O'ahu Invasive Species Committee
Supporting S.B. 2448 Relating to Invasive Species
Senate Committee on Economic Development, Environment and Technology and
the Senate Committee on Water, Land, and Agriculture
Friday February 12, 2016 1:20 PM Room 414

The O'ahu Invasive Species Committee supports S.B. 2448 which would provide a legal framework for the timely control of invasive species while still allowing for public input. In order to effectively deal with invasive species, there must be a process to quickly designate an organism as a problem and allow officials access to private property to deal with it.

Little Fire Ants are a great example. All the current infestations of this species occur, at least in part, on private property. Treating public land might reduce the population, but it will balloon back up if there is a source population on private land. Eradication is the goal for all populations of Little Fire Ant on Maui, O'ahu and Kaua'i. Workers need access to all lands where the ants occur in order to accomplish this.

On O'ahu, we have been able to be successful with the invasive tree miconia because in the very beginning the source trees were all removed voluntarily by the private landowners that owned them. We are grateful for their cooperation. However, had just one landowner refused, we would now be dealing with an infestation that is out of control and beyond eradication.

We recognize the need and our duty to receive public input for these processes, but with invasive species control, the ability to react quickly can mean the difference between the perpetual expense of ongoing control and a one-time expense of eradication. This bill would allow for public input but create a faster process for action.



SB2448

RELATING TO INVASIVE SPECIES

Senate Committee on Economic Development, Environment, and Technology
Senate Committee on Water, Land, and Agriculture

February 12, 2016

1:20 p.m.

Room 414

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB2448, which gives the inter-agency Hawai'i Invasive Species Council (HISC) much-needed tools to address the constant threat of potentially disastrous invasive species introductions.

As a geologically isolated island archipelago, Hawai'i hosts a number of unique ecosystems and indigenous species that are particularly vulnerable to disruption and decimation by invasive species – a matter of substantial concern for Native Hawaiians, and all Hawai'i residents. The perpetuation of Native Hawaiian traditions and cultural knowledge rely upon the continued availability of our indigenous flora and fauna; moreover, our native watersheds and forests also provide a range of ecological services, such as aquifer recharge and erosion control, that are critical to everyone who calls Hawai'i home. Invasive species that disrupt our native ecosystems and threaten native species may therefore have untold impacts on our cultural heritage, as well as the economic, scientific, and recreational interests of the state.

Unfortunately, Hawai'i's role as a major Pacific hub greatly increases the chances of invasive species introductions. As illustrated by the 'ōhi'a rust and 'ōhi'a wilt, hala scale, coqui frog, and little fire ant, invasive species may also come in a wide variety of forms, may spread in a number of different ways, and must therefore be dealt with as swiftly and proactively as possible once detected, to prevent their widespread distribution and establishment.

Accordingly, this measure allows the HISC to apply its interagency expertise and resources, to promulgate rules and take coordinated, emergency actions necessary for it to address the threat of invasive species in Hawai'i. OHA notes that the narrow, expedited rulemaking authority to amend the list of identified invasive species may be critical to meet the time-sensitive needs of invasive species control, given the length of time that the administrative rulemaking process may otherwise take, and the potentially rapid and often irreversible nature of invasive species' establishment in our islands.

In light of the above, OHA urges the Committees to **PASS** SB2448. Mahalo for the opportunity to testify on this important measure.



Shaping the future for birds

February 12, 2016

Senate Committee on Economic Development, Environment, and Technology
Senate Committee on Water, Land, and Agriculture
Hawaii State Capitol, Room 414
415 South Beretania Street
Honolulu, HI 96813

Dear Chairs Gabbard and Wakai and Members of the Committee:

On behalf of American Bird Conservancy, I am writing to urge your **support for SB 2448**, which would authorize the Hawaii Invasive Species Council to adopt rules to change its invasive species list and to better control invasive species.

The Hawaii Invasive Species Council is an interdepartmental collaboration created to provide policy-level direction, coordination, and planning among state departments, federal agencies, and initiatives for the control and eradication of harmful invasive species. By helping the Hawaii Invasive Species Council to achieve its mission, you will be supporting Hawaii's people and wildlife. Invasive species, by definition, are non-native species that cause or are likely to cause economic or environmental harm or harm to human health.

This bill provides the Hawaii Invasive Species Council with the authority to make necessary updates to the list of invasive species, while maintaining important opportunities for public input.

Hawaii has the dubious distinction of being the bird extinction capital of the world, in part because of the persistent threat from introduced invasive species such as mongoose and Norway rats. Appropriate control and eradication of such invasive species will benefit wildlife and people by promoting healthy ecosystems, protecting public health, and providing threatened and endangered species with a chance to recover and be removed from the Endangered Species Act.

This bill is a reasonable and appropriate step to protect the people and natural resources of Hawaii, and **we respectfully request your support for SB 2448.**

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Grant Sizemore".

Grant Sizemore, M.S., AWB®
Director of Invasive Species Programs



FEBRUARY 12, 2016
LICH TESTIMONY PROVIDING **COMMENTS ON SB 2448**

SENATE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
SENATE COMMITTEE ON WATER, LAND, & AGRICULTURE

The Landscape Industry Council of Hawaii (LICH) provides the following comments on SB 2448 Relating to invasive species.

LICH and many of its members have worked with the conservation and invasive species community for many years. However, this bill caught our attention and prompts our comments. As a whole, the public rulemaking process is designed to provide a clear and consistent roadmap which agencies and stakeholders rely upon to guide public input on proposed changes. This bill would exempt the Hawaii Invasive Species Council from chapter 91 for the purpose of adopting as-yet undeveloped rules and make additions and deletions from a list of invasive species list, provided that the rules itself would establish a process for public notification and input on the process and species.

We are requesting a clarification on how this public notification and input process would work, and the rationale for this exemption before we determine our support or opposition to this bill.

Thank you for the opportunity to testify.

Sincerely,

Garrett Webb
President

Landscape Industry Council of Hawai'i

Hawaii's landscape industry has an economic impact of over \$520 million annually and full time employment of over 11,000 landscape professionals. Formed in 1986, LICH is a statewide alliance representing Hawaii's landscape trade associations. LICH can be found online at www.hawaiiscape.com

wakai1 - Lilinoe

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 11, 2016 1:26 AM
To: EET Testimony
Cc: allan.yoza@hawaiiintel.net
Subject: Submitted testimony for SB2448 on Feb 12, 2016 13:20PM

SB2448

Submitted on: 2/11/2016

Testimony for EET/WLA on Feb 12, 2016 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Allan	Individual	Oppose	No

Comments: Strongly oppose if this SB applies to feral cats.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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wakai1 - Lilinoe

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 11, 2016 8:27 AM
To: EET Testimony
Cc: carol@carolkwanconsulting.com
Subject: Submitted testimony for SB2448 on Feb 12, 2016 13:20PM

SB2448

Submitted on: 2/11/2016

Testimony for EET/WLA on Feb 12, 2016 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Kwan	Individual	Comments Only	No

Comments: How would the exemption process work? What is the rational behind it?

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wakai1 - Lilinoe

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, February 11, 2016 8:28 AM
To: EET Testimony
Cc: carol@carolkwanconsulting.com
Subject: Submitted testimony for SB2448 on Feb 12, 2016 13:20PM

SB2448

Submitted on: 2/11/2016

Testimony for EET/WLA on Feb 12, 2016 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Carol Kwan	Individual	Comments Only	No

Comments: How would the exemption process work? What is the rational behind it?

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Good Shepherd Foundation
P.O. Box 1880
Pahoa, Hawaii 96778
808-935-5563

Testimony on SB 2448 Relating to Invasive Species

The control of invasive species is clearly an important issue in Hawaii. However, this does not justify bypassing important constitutional and statutory laws that protect the public's right to participate in the rule making process that defines how our government operates and controls invasive species.

SB 2448 attempts to circumvent HRS Chapter 91 and its mandated public review requirement for the rule making process.

While the bill states that the ISC shall make rules that will allow for public comment on which species are listed as invasive, it bypasses public comment on the rules themselves, exempting the ISC from Chapter 91 requirements for allowing public participation in the rule making process, which all other governmental agencies must obey.

There is no justification for excluding the public from the ISC rule making process, especially given the intrusive nature of these rules on private property owners. There is no reason why the rules guiding this process should be exempted from public review as mandated by Chapter 91.

This bill may also violate our constitutional right to due process, since the ISC rules will allow for a court ordered entry onto private property and the destruction of privately owned animals or plants which may be deemed by the ISC to be invasive.

If the goal of the Senate is to control invasive species more effectively, then the ISC needs more public involvement, not less. This bill seems like a power grab by the ISC, disenfranchising the public. As a result, it may achieve even less public support for invasive species management.

Therefore, I strongly oppose this bill. Let the rules be made according to Chapter 91, and get more, not less, public involvement in invasive species management decisions.

Sincerely,

Sydney Ross Singer
Medical Anthropologist
Director

Testimony of Martha Girdany
2037 Kolo Road
Kilauea, Kaua'i 96754
808-320-3748

I am submitting this written testimony in OPPOSITION to SB2448, which is a revision of Chapter 194, amending the invasive species list.

As a citizen of Hawai'i, I am well aware of the threat posed by various invasive species to our state. However, I am concerned that SB2448, which can revise the invasive species list without extant notice and public hearing requirements, may add cats to this list because of concerns raised by conservationists.

I am submitting this testimony as a private citizen, but I am also the Vice President of Kaua'i Community Cat Project, a non-profit, 501 (c) 3 organization devoted to the welfare of feral/community cats on Kaua'i. Community cats are part of the ecosystem, and my organization: 1) is in agreement that community cats should NOT be in or near threatened and/or endangered bird habitats; 2) is not in agreement that all community cats should be trapped and killed as a means of protecting wildlife; and 3) advocates for trap-neuter-return (TNR) as the most effective way to protect our ecosystems island-wide and to humanely reduce and stabilize the community cat population.

Should cats be added to the invasive species list, I STRONGLY object to the additional new language in SB2448. This language, in Section 2, states that the Invasive Species Council may enter private property, even without permission of the private property owner ("after reasonable notice is given to the owner of the property and, if entry is refused, pursuant to court order") to control and eradicate said invasive species. I own multiple cats; this fact should not be surprising, given my role as an officer of Kaua'i Community Cat Project. Will the Invasive Species Council be entering my home, my eminent domain, to remove my cats? I think not! I can think of no circumstances under which such action would be permitted under privileges granted to me by the Constitution of these United States and the Bill of Rights.

I urge you to thoroughly examine the potential consequences of SB2448, consequences which you might not have otherwise considered, before moving forward with this bill.

I oppose bill HB2143, which will be discussed in the Agriculture Committee tomorrow, February 11th.

This bill gives overly broad powers to conservation agencies to declare animals — including pets — as invasive species and noxious pests. I am president of Kauai Community Cat Project, and we know through a UIPA request that local agencies on Kauai, including the Kauai Invasive Species Committee (KISC) have been lobbying Suzanne Case, Chairperson/DLNR, for just such a declaration.

Should HB2143, and the companion senate bill, SB2448, move forward, I believe that DLNR would likely designate cats as an invasive species. If this happened, provisions in these bills, and other laws that already exist, would allow DLNR, or any designated agency, including KISC, to enter private property, including my home, my land, etc. to remove cats. It may sound outrageous, but it would be legal.

If the intent of this legislation is to help remove cats from designated conservation areas, then it should be changed to limit permissible actions.

wakai1 - Lilinoe

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 10, 2016 12:51 PM
To: EET Testimony
Cc: ezeisenpress@gmail.com
Subject: *Submitted testimony for SB2448 on Feb 12, 2016 13:20PM*

SB2448

Submitted on: 2/10/2016

Testimony for EET/WLA on Feb 12, 2016 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
Zoe Eisenpress	Individual	Support	No

Comments:

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wakai1 - Lilinoe

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 10, 2016 8:37 AM
To: EET Testimony
Cc: alohasharing@gmail.com
Subject: Submitted testimony for SB2448 on Feb 12, 2016 13:20PM

SB2448

Submitted on: 2/10/2016

Testimony for EET/WLA on Feb 12, 2016 13:20PM in Conference Room 414

Submitted By	Organization	Testifier Position	Present at Hearing
sharing lawrence	Individual	Oppose	No

Comments: I adamantly oppose SB2448 for reasons of individual and property owners rights that will be overlooked and sabotaged. County and state should look to the guidance of Humane Society for these issues. There are many compassionate caretakers in Hawaii helping and hosting animals that are injured or sick or without any resources to eat and live a healthy life. This is not the issue that is affecting native species. This is a violation of human rights to pass such a bill. OPPOSE, OPPOSE, OPPOSE

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