

SB 2900

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the Senate Committee on
WATER, LAND, AND AGRICULTURE**

**Monday, February 8, 2016
10:00 A.M.
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 2900
RELATING TO STATE BOATING FACILITIES**

Senate Bill 2900 proposes to clarify that the Board of Land and Natural Resources (Board) may lease all fast lands and submerged lands within any existing state boating facility pursuant to a request for proposals without regard to Section 200-2.6, Hawaii Revised Statutes (HRS), and without prior authorization of the Legislature by concurrent resolution pursuant to Section 171-53, HRS. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

Currently, Section 200-2.5(a), HRS, authorizes the Board to lease "fast lands and submerged lands within an existing state boating facility" by public auction, a request for proposals, or by direct negotiation pursuant to Section 171-59, HRS, and chapter 190D, HRS, for private development, management, and operation, provided that any lease of fast lands or submerged lands pursuant to a request for proposals shall be subject to Section 200-2.6, HRS, regardless to which state boating facility the fast or submerged lands are attached. In turn however, Section 200-2.6, HRS, only addresses leases of the Ala Wai Boat Harbor. The reference to Section 200-2.6, HRS, within Section 200-2.5(a), HRS, is ambiguous and confusing.

The Department operates and manages twenty-one harbors, which includes certain areas that are underused and if properly developed could potentially generate revenues that would enable not only its own continued improvement and maintenance but the improvement and maintenance of the rest of the state small boating facilities. Many of these facilities are in dire need of long overdue repair and maintenance. For safety reasons, it is essential that the Department address these deficiencies in timely fashion. The requirements of Section 171-53, HRS, greatly hinder the ability of the Department to timely confirm leases or dispositions with private parties by

adding the additional requirement of legislative approval. Development projects of this size and scope are time sensitive.

Senate Bill 2900 would provide the Department with more flexibility and options to upgrade and improve state boating facilities in timely fashion, to the benefit of boaters.



COMMITTEE ON WATER, LAND, AND AGRICULTURE

Senator Mike Gabbard, Chair

Senator Clarence K. Nishihara, Vice Chair

DATE: Monday, February 08, 2016

TIME: 10:00 am

PLACE: Conference Room 224

**TESTIMONY OF THE OCEAN TOURISM COALITION
SPEAKING IN OPPOSITION OF SB2900 RELATING TO STATE BOATING
FACILITIES**

Senator Gabbard Chair, Senator Nishihara Vice Chair and Senators of the Committee on Water, Land, and Agriculture:

My name is James E. Coon, President of the Ocean Tourism Coalition **speaking in OPPISITON of SB 2900 as proposed.** The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities. Most of these businesses operate from State Boating Facilities. It is the consensus of our user group that Legislative Oversight is an important safeguard when it comes to such valuable resources as the State wide Boating Facilities. SB 2900 would remove that oversight.

It would seem to be irresponsible for the legislature, in spite of the many important areas they already oversee, to abdicate their current oversight of these resources. Because there are State Boating Facilities in most if not all legislative districts, the Senator from that district has the most intimate knowledge of what would be good for the people in their district and as

their elected representative would be in a very appropriate position to weigh in on issues such as privatizing State Harbors under DLNR. It would give the people of that district the ability to make their wishes known and carried out by their Senator and ultimately serve that community appropriately.

The Commercial Boating Community operates out of these same Boating facilities in many districts. Commercial Boating was recognized as one of the primary functions for Small Boat Harbors and Boating Facilities in the early 1980's under DOT-Harbors and these functions were moved over to DLNR Division of Boating and Ocean Recreation. Over the past 30 some years a very comprehensive set of rules and regulations overseeing our industry has evolved. It is complicated and not perfect but at the end of the day with the current Legislative oversight it does work.

While OTC can appreciate the desire of DLNR just to hire some private entity to take care of the many hassles inherent in the Boating Program, we believe that decisions of large magnitude must involve the Legislature.

As a possible compromise—if you determine that this bill must move forward—maybe small portions of submerged lands involving a particular slip or seawalls or other small parcels could be exempted, but it is our collective opinion that large marine parcels including offshore mooring areas, boat ramps and Small Boat Harbors deserve your continued oversight.

Sincerely,

James E. Coon, President OTC
808-870-9115
captcoon@gmail.com



DATE: Monday, February 08, 2016

TIME: 10:00 AM

PLACE: Conference Room 224

TESTIMONY OF LAHAINA DIVERS, INC.

Speaking in Opposition of SB2900 Relating to State Boating Facilities

Chair Gabbard, Vice Chair Nishihara, Members of the Water, Land, & Agriculture Committee:

My name is Gregory L. Howeth, Owner of Lahaina Divers, Inc., and past Vice President of the Ocean Tourism Coalition (OTC). The OTC represents over 300 small ocean tourism businesses state wide. Like mine, most of these are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities. My business, in particular, has been in operation since 1978. Most of these businesses, including mine, operate from State Boating Facilities. It is the consensus of our user group that Legislative Oversight is an important safeguard when it comes to such valuable resources as the State wide Boating Facilities. SB2900 would remove that oversight.

It would seem to be irresponsible for the legislature, in spite of the many important areas they already oversee, to abdicate their current oversight of these resources. Because there are State Boating Facilities in most if not all legislative districts, the Representative from that district has the most intimate knowledge of what would be good for the people in their district and as their elected Representative would be in a very appropriate position to weigh in on issues such as privatizing State Harbors under DLNR. It would give the people of that district the ability to make their wishes known and carried out by their Representative and ultimately serve that community appropriately.

The Commercial Boating Community operates out of these same Boating facilities in many districts. Commercial Boating was recognized as one of the primary functions for Small Boat Harbors and Boating Facilities in the early 1980's under DOT-Harbors and these functions were moved over to DLNR Division of Boating and Ocean Recreation. Over the past 30 some years a very comprehensive set of rules and regulations overseeing our industry has evolved. It is complicated and not perfect but at the end of the day with the current Legislative oversight it does work.

While I and the OTC can appreciate the desire of DLNR just to hire some private entity to take care of the many hassles inherent in the Boating Program, we believe that decisions of large magnitude must involve the Legislature.

As a possible compromise—if you determine that this bill must move forward—maybe exempt small portions of submerged lands involving a particular slip or seawalls or other small parcels could be exempted, but it is our collective opinion that large marine parcels including offshore mooring areas, boat ramps and Small Boat Harbors deserve your continued oversight.

Sincerely,

Greg Howeth, President Lahaina Divers, Inc.

143 Dickenson Street • Lahaina, Maui, HI 96761

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COMMITTEE ON WATER, LAND, AND AGRICULTURE
Senator Mike Gabbard, Chair
Senator Clarence K. Nishihara, Vice Chair

From: Quicksilver Charters
Date/Time of Hearing: February 8, 2016, 10:00 AM
Measure No. and Title: SB2900

OPPOSITION TESTIMONY

Dear Chair Gabbard, Vice Chair Nishihara and Members of the Water, Land and Agriculture Committee:

Quicksilver Charters, Frogman Charters and their affiliates (the “Companies”) employ close to 100 people in Hawaii’s boating and tourism industries. We oppose this bill as it will eliminate legislative oversight of matters that affect valuable community resources.

SB2900 Diminishes Roll of Local Government in Meeting Community Needs

Our local elected officials are in a better position to determine if a lease contract takes into consideration the needs of the boating community, especially when it comes to resources such as the State boating facilities. *These facilities employ thousands of employees and are critical to our local economy.*

SB2900 Eliminates an Important “Check and Balance” System

Legislative oversight is absolutely necessary for any decisions affecting State boating facilities, especially decisions that affect the management and operation of a harbor. The requirement for DLNR to obtain legislative consent to lease these important state resources is an important “check” on any process that greatly affects our valuable community resources. A system of “checks and balances” is essential when making decisions that greatly affect businesses and the community.

SB2900’s Justification in Support of Bill is Misguided

The following justification is cited in the draft bill:

The requirements of section 171-53, HRS, greatly hinder the ability of the Department to timely confirm leases or dispositions with private parties by adding the additional requirement of legislative approval. Development projects of this size and scope are time sensitive.

A lease for the operation and management of a state boating facility shouldn't be rushed, and leases should be closely examined by the legislature to ensure the lease takes into consideration the needs of the local community. We don't want any decisions made without legislative approval, and we don't want any decision made quickly without closely examining the impact on the community.

Conclusion

Legislative approval was incorporated into HRS 200-2.5(a)-2.6 for the important purpose of having legislative oversight on decisions that affect valuable community resources. We think that oversight should remain, and we oppose SB2900.

Sincerely,

Zachary LaPrade