

**SB 2904**

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

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

**Monday, February 8, 2016  
10:00 AM  
State Capitol, Conference Room 224**

**In consideration of  
SENATE BILL 2904  
RELATING TO AQUATIC MITIGATION BANKS**

Senate Bill 2904 proposes to grant the Department of Land and Natural Resources (Department) authority to establish and operate aquatic mitigation banks, the purpose of which is to restore, create, enhance, or preserve aquatic habitats or resources as compensatory mitigation where a person is required to provide compensatory mitigation prospectively and the use of banked mitigation is approved by the agency requiring mitigation, or for past damages to aquatic habitats or resources. **The Department strongly supports this Administration measure.**

This measure would provide the Department with another mechanism to address the increasing adverse impacts to the State's aquatic public trust resources and habitats. Resource agencies identify the use of mitigation banks as the preferred form of compensatory mitigation. Compensatory mitigation refers to the restoration, creation, enhancement, or preservation of aquatic habitats or resources for the purposes of offsetting unavoidable adverse impacts. In a mitigation bank, aquatic resources or habitats are improved and "banked" in anticipation of potential future losses of similar resources or habitats. When a resource agency requires a responsible party to conduct compensatory mitigation, either in advance of permitted impacts to aquatic resources or habitats or as a part of remediation for unpermitted adverse impacts, the responsible party can satisfy this mitigation requirement through a mitigation bank.

Mitigation banking is an innovative tool for resource protection and restoration. The concept has existed at the federal level since 1983. In addition, at least twenty-eight states have developed their own legislation, rules, or guidance to offset resource losses from state permitting regimes, or for unplanned impacts to aquatic resources and habitats. Although mitigation banks have

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DEPUTY DIRECTOR - WATER

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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
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predominantly restored wetland and stream habitats, there has been an increasing national interest in using mitigation banks to improve coral reef, sea grass, and estuarine habitats.

The authority to develop mitigation banks is a first step in the process of creating innovative mechanisms for aquatic resource conservation. With this authority, the Department can promulgate appropriate rules and establish mitigation banks for a variety of habitat types, beginning with coral reefs. In conclusion, as mentioned previously, the Department supports this Administration measure as written.



**SB2904**  
RELATING TO ENVIRONMENTAL MITIGATION  
Senate Committee on Water, Land and Agriculture

February 8, 2016

10:00 a.m.

Room 224

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The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment (BAE) will recommend that the Board of Trustees **SUPPORT** SB2904, which would authorize the Department of Land & Natural Resources (DLNR) to establish aquatic resource mitigation banks, which may more effectively mitigate or compensate for the loss of aquatic resources impacted by both planned and unplanned activities.

**Mitigation banking and similar programs may help to streamline state and federal permitting processes, while generating revenue to support efficient and coordinated resource conservation and protection programs.** Well-established on the continental United States, particularly for wetland areas, mitigation banking is one approach to address possible gaps and inefficiencies with traditional “permittee-responsible” mitigation, in which federal or state permittees are tasked with directly mitigating the environmental impacts of projects for which their permits are sought. Mitigation banks instead allow permittees to purchase “credits” or otherwise support mitigation efforts in a designated “bank” area or program, utilizing the more specific expertise and/or planning processes of the institution managing the “bank,” and taking advantage of the more easily measurable characteristics of an established mitigation operation. In this way, mitigation banking and similar programs may provide for a more efficient and coordinated means to mitigate the impacts of development and other activities, while streamlining the permitting process for such development. Similarly, a mitigation bank can ensure that fines collected as a result of unplanned activities that damage certain resources, can be more appropriately assessed and dedicated to the restoration of similar resources within the bank.

**OHA believes that the aquatic resource mitigation banks authorized by this bill may allow the DLNR’s Division of Aquatic Resources to engage in new, innovative, and much-needed aquatic habitat rehabilitation programs and initiatives, and ensure the more efficient and effective use of fees and fines resulting from activities that impact our aquatic resources.**

Therefore, OHA urges the Committee to **PASS** SB2904. Thank you for the opportunity to testify on this measure.

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**SB2904**

Submitted on: 2/1/2016

Testimony for WLA on Feb 8, 2016 10:00AM in Conference Room 224

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Carl M Jellings Sr	Individual	Support	No

Comments:

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