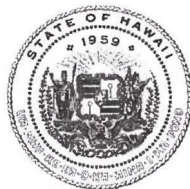


SB 3022

RELATING TO  
FERRIES



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

Testimony by:  
FORD N. FUCHIGAMI  
DIRECTOR

Deputy Directors  
JADE T. BUTAY  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN  
DARRELL T. YOUNG

IN REPLY REFER TO:

February 9, 2016  
2:45 p.m.  
State Capitol, Room 229

**S.B. 3022  
RELATING TO FERRIES**

Senate Committee(s) on  
Transportation and Energy & Water, Land and Agriculture

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The Department of Transportation (DOT) **supports the intent** of S.B. 3022 that helps facilitate continued discussion on the establishment of an interisland ferry.

The purpose of this Act is to:

- (1) Provide a non-refundable tax credit and a fifty per cent reduction in harbor fees for the first year of operation for any company operating an inter-island ferry vessel; and
- (2) Direct the department of land and natural resources to conduct any necessary environmental impact assessments to enable the department of transportation to fully implement a Hawaii state ferry system.

The Department of Transportation would be willing to entertain measures that would assist potential ferry operators in their start up and initial operating costs of implementing and refining a successful inter-island ferry system. However, we would like to take this opportunity to offer the following for consideration:

- a) Specifying the capacity of a qualifying "Inter-island ferry" specifically to "any inter-island ferry vessel that is designed to transport and transports or is intended to transport per voyage at least four hundred passengers, along with motor vehicles and cargo between the islands of the State" before a feasibility and market study is complete may unintentionally eliminate certain competitors and types of vessels and modes of operation from consideration. Perhaps consideration could be given to leaving the number of passengers blank until such a study is completed.

- b) Additionally, we note that HRS Chapter 266 applies specifically to the Department of Transportation, Harbors Division. The legislature may also consider adding language to Chapter 268, which covers the Hawaii State Ferry system, and to the Chapter covering DLNR Division of Boating and Ocean Recreation to ensure that the waiver of fees covers the many different sizes and operations that an interisland ferry system may fall under.

In closing, we appreciate the renewed interest in the discussions of a ferry system.

Thank you for the opportunity to testify.

DAVID Y. IGE  
GOVERNOR OF HAWAII



**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 Committees on  
TRANSPORTATION AND ENERGY  
and  
WATER, LAND, AND AGRICULTURE**

**Tuesday, February 9, 2016  
2:45 PM  
State Capitol, Conference Room 229**

**In consideration of  
SENATE BILL 3022  
RELATING TO FERRIES**

Senate Bill 3022 proposes to require the Department of Land and Natural Resources (Department) to conduct any necessary environmental assessments for the establishment of an intra-state or inter-state ferry system and to provide for a non-refundable tax credit and a fifty percent reduction in harbor fees for the first year of operation for any company operating an inter-island ferry vessel. **The Department supports this measure and offers the following comments.**

An intra-state or inter-state ferry system will require substantial infrastructure that can accommodate large vessels as well as support the loading and off-loading of passengers and cargo. The vessel HUAKAI that was used as part of the Super Ferry operation was 373' in length, carried 866 passengers, and was capable of holding up to 282 compact cars. The largest vessel that a state small boat harbor is capable of handling is approximately sixty feet with a capacity of 149 passengers and limited cargo. The Department is open to creating more opportunities for small ferry operations such as the one currently operating in Maui County but feels that the Department of Transportation is better suited to accommodate large ferry operations such as the ones contemplated in this measure.

**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



DAVID Y. IGE  
GOVERNOR

SHAN TSUTSUI  
LT. GOVERNOR



MARIA E. ZIELINSKI  
DIRECTOR OF TAXATION

JOSEPH K. KIM  
DEPUTY DIRECTOR

STATE OF HAWAII  
**DEPARTMENT OF TAXATION**

P.O. BOX 259  
HONOLULU, HAWAII 96809  
PHONE NO: (808) 587-1540  
FAX NO: (808) 587-1560

To: The Honorable Mike Gabbard, Chair  
and Members of the Senate Committee on Water, Land, and Agriculture

The Honorable Lorraine R. Inouye, Chair  
and Members of the Senate Committee on Transportation and Energy

Date: February 9, 2016  
Time: 2:45 P.M.  
Place: Conference Room 229, State Capitol

From: Maria E. Zielinski, Director  
Department of Taxation

Re: S.B. 3022, Relating to Ferries.

The Department of Taxation (Department) appreciates the intent of S.B. 3022, and offers the following comments for your consideration.

S.B. 3022 creates a nonrefundable income tax credit for any principal operator of an inter-island ferry. The credit is equal to five percent of the principal operator's individual or corporate income tax liability. The credit becomes effective July 1, 2016.

First, the Department notes the definition of "principal operator" is problematic. The definition requires at least 51 percent of the taxpayer's gross annual income be derived from operating an inter-island ferry. This definition is problematic because "gross annual income" is not a defined, certain value in the tax law. Therefore, use of this term would lead to uncertainty as to eligibility as a principal operator.

Also, because the definition uses a gross measure, there is risk that the credit may be applied against tax liability unrelated to ferry operations. For example, a taxpayer with a large gross income from ferry operations but little tax liability from ferry operations could have tax liability from other sources and use this tax liability to generate the credit. As long as the ferry-related gross income is at least 51 percent of the total the taxpayer could its tax liability from other sources to generate this credit. This is possible because the qualification for principal operator is based on a gross measure of income while the credit is based on a net measure.

For these reasons, the Department recommends the definition of "principal operator" be amended to a functional definition and that another State agency certify whether taxpayers satisfy

that definition. This will allow the removal of income and tax considerations from the definition of “principal operator” altogether.

Second, the definition of “inter-island ferry” is not precise enough. As drafted, the definition could be interpreted to include inter-island cruise ships. An inter-island cruise ship may only need to carry one motor vehicle and one piece of cargo to qualify. The Department recommends the definition of “inter-island ferry” be amended to better reflect the ferry operations this bill is intended to incentivize. The Department does not have the resources or expertise to determine whether ships are inter-island ferries or not, and therefore, recommends another State agency certify the requirements of this credit, including both definitions discussed above.

Furthermore, the Department notes that this credit is unusually structured, and as a result, may not carry out the bill’s stated intent. The credit equals five percent of the taxpayer’s tax liability. While this is a simple method of calculating the credit, most new companies or operations are not profitable in the early years. This means that in early years the intended beneficiaries will likely have no tax liability with which to generate the credit.

Generally, income tax credits are unlikely to support new companies regardless of how the credit is measured because new companies typically have no tax liability to be reduced by the credit. For this reason the credit as drafted may fail to benefit its intended beneficiaries and a direct subsidy or other incentive such as a grant may be more practical.

Finally, the Department recommends that the effective dates of the bill be revised. Because this is a new credit, the Department requests the credit become effective for tax years beginning after December 31, 2016, to allow the Department time to make the necessary forms and computer system changes. Also, the preamble and description of the bill states that the credit is to be for the first year of operation of a ferry system; however, nothing in the bill indicates the credit will be limited to the first year of operation. The Department recommends the lifespan of the credit be made clear in the language of the credit itself.

Thank you for the opportunity to provide comments.



# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: NET INCOME, Tax Credit for Inter-Island Ferry

BILL NUMBER: SB 3022

INTRODUCED BY: GALUTERIA, INOUE, KIDANI, SHIMABUKURO, Dela Cruz, English, Harimoto, Keith-Agaran, Kim, Kouchi, Nishihara, Riviere

EXECUTIVE SUMMARY: Proposes an income tax credit for an inter-island ferry. The proposed credit would result in a subsidy as it would merely grant a tax credit irrespective of a taxpayer's need for tax relief. But this credit is based on the operator's tax liability, and so may have no relationship whatsoever to what the ferry costs.

BRIEF SUMMARY: Adds a new section to HRS chapter 235 to allow the principal operator of an inter-island ferry who files an individual or corporate net income tax return to claim a tax credit. The amount of the credit shall be 5% of the principal operator's individual or corporate income tax liability.

Defines "inter-island ferry" as any inter-island ferry vessel that is designed to transport and transports or is intended to transport per voyage at least four hundred passengers, along with motor vehicles and cargo between the islands of the State. Defines "principal operator" as any individual or corporate taxpayer who derives at least fifty-one per cent of the taxpayer's gross annual income from the inter-island ferry vessel operations.

Credits in excess of a taxpayer's income tax liability may be applied to subsequent income tax liability until exhausted. Requires all claims for the credit to be filed on or before the end of the twelfth month following the close of the taxable year. The director of taxation may prepare the necessary forms to claim the credit and may require the taxpayer to furnish information to ascertain the validity of the claim for the credit. The director may adopt rules under chapter 91.

EFFECTIVE DATE: July 1, 2016.

STAFF COMMENTS: It appears that this measure is proposed to subsidize the cost of a ferry, but the amount of the credit granted has no relation to what a ferry costs. Instead, the measure gives the principal operator of the ferry a 5% break off its income tax liability, in perpetuity, as long as more than half of the operator's income comes from the ferry.

Lawmakers need to remember two things. First, the tax system is the device that raises the money that they, lawmakers, like to spend. Using the tax system to shape social policy merely throws the revenue raising system out of whack, making the system less than reliable as there is no way to determine how many taxpayers will avail themselves of the credit and in what amount. The second point to remember about tax credits is that they are nothing more than the expenditure of public dollars, but out the back door. If, in fact, these dollars were subject to the appropriation process, would taxpayers be as kind about the expenditure of these funds when

students are roasting in our schools, or when there isn't enough money for social service programs?

Utilizing tax credits other than to alleviate an excessive tax burden cannot be justified and is of a questionable benefit relative to the cost for all taxpayers. A direct appropriation to subsidize that cost would be more accountable and transparent. At least we would know the amount of the appropriation, while the amount of the credit would be a great big question mark.

Furthermore, the additional credit would require changes to tax forms and instructions, reprogramming, staff training, and other costs that could be massive in amount compared to the benefit expected to accrue as a result of the creditable activity. Given that the number of principal operators of a ferry system that can be expected to result can probably be counted on one hand, there is a potential that the administrative costs could overshadow everything else related to the tax credit. In this situation it would be far better to appropriate the funds for a subsidy and then have the appropriate agency disburse the funds.

Digested 2/1/2016



Randy Perreira  
President

# HAWAII STATE AFL-CIO

345 Queen Street, Suite 500 • Honolulu, Hawaii 96813

Telephone: (808) 597-1441

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The Twenty-Eighth Legislature, State of Hawaii  
Hawaii State Senate  
Committee on Water, Land, and Agriculture  
&  
Committee on Transportation and Energy

Testimony by  
Hawaii State AFL-CIO  
February 9, 2016

## S.B. 3022 – RELATING TO FERRIES

The Hawaii State AFL-CIO supports the concept of bringing back a passenger inter-island ferry service between the neighbor islands and appreciates the Legislature's willingness to look into this matter.

Thank you for the opportunity to testify.

Respectfully submitted,

Randy Perreira  
President



**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 01, 2016 8:17 PM  
**To:** TRE Testimony  
**Cc:** mauibrad@hotmail.com  
**Subject:** Submitted testimony for SB3022 on Feb 9, 2016 14:45PM

**SB3022**

Submitted on: 2/1/2016

Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brad Parsons	Aloha Analytics	Oppose	No

Comments: Still not viable.

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P.O. Box 253, Kunia, Hawai'i 96759  
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February 9, 2016

HEARING BEFORE THE  
SENATE COMMITTEE ON WATER, LAND AND AGRICULTURE  
SENATE COMMITTEE ON TRANSPORTATION AND ENERGY

TESTIMONY ON  
SB3022: RELATING TO FERRIES

Room 229  
2:45 PM

Aloha Chair Gabbard, Chair Inouye, and Members of the Committees:

I am Randy Cabral, President of the Hawaii Farm Bureau (HFB). Organized since 1948, the HFB is comprised of 1,900 farm family members statewide, and serves as Hawaii's voice of agriculture to protect, advocate and advance the social, economic and educational interest of our diverse agricultural community.

HFBF supports SB3022, providing incentives and requiring an environmental assessment to determine the need of an environmental impact statement for the establishment of an intra-state or interstate ferry system.

During the Superferry debate, there was a consensus that such a service was needed between the islands. The cause of the conflict was the methodology, thus emphasizing the need to understand the various ramifications associated with these measures. As Hawaii grows, the need for improved transportation services is urgently needed. Agriculture cannot depend on air transport and new food safety regulations coupled with market needs require improvements in surface transportation.

We believe that the EA addresses the concerns raised in the past and can help advance discussions to address Hawaii's transportation needs.

HFBF respectfully requests your support of this important matter.

Thank you for this opportunity to provide our opinion on this important matter.



**Testimony to the Senate Committee on Water, Land, & Agriculture, and  
Committee on Transportation & Energy  
Tuesday, February 9, 2016 at 2:45 P.M.  
Conference Room 229, State Capitol**

**RE: SENATE BILL 3022 RELATING TO FERRIES**

Chairs Gabbard and Inouye, Vice Chairs Nishihara and Gabbard, and Members of the Committees:

The Chamber of Commerce Hawaii ("The Chamber") understands the intent of revisiting an inter-island ferry system but **expresses concerns** on the wording of SB 3022, which proposes to require the department of land and natural resources to conduct any necessary environmental assessment for the establishment of an intra-state or inter-state ferry system and makes an appropriation. Funding of the environmental assessment will be through an appropriation from the environmental response, energy, and food security tax. Provides a non-refundable tax credit and a fifty per cent reduction in harbor fees for the first year of operation for any company operating an inter-island ferry vessel.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

Insofar that the proposed inter island ferry would operate out of the State Department of Transportation Harbor facilities, it is unusual to have another agency, in this case the Department of Land and Natural Resource, be responsible for preparing the Chapter 343 HRS document. Moreover, without some understanding of how the ferries will operate, including the type of water craft that will be used, it would be difficult if not impossible to prepare a valid environmental assessment.

Perhaps, given the fiasco of the Superferry, there needs to be a more coordinated effort among the agencies and potential operators in developing an environmental assessment that would meet the requirements of Chapter 343 HRS as a "public disclosure" document, and avoid future challenges that "sunk" the Superferry's operations in Hawaii.

Thank you for the opportunity to express our views on this matter.

**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 10:19 AM  
**To:** TRE Testimony  
**Cc:** rswindell@bridgedeck.org  
**Subject:** \*Submitted testimony for SB3022 on Feb 9, 2016 14:45PM\*

**SB3022**

Submitted on: 2/8/2016

Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randy Swindell	IOMM&P	Support	No

Comments:

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**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, February 08, 2016 12:23 PM  
**To:** TRE Testimony  
**Cc:** Mhiga@mfoww.org  
**Subject:** Submitted testimony for SB3022 on Feb 9, 2016 14:45PM

**SB3022**

Submitted on: 2/8/2016

Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mario Higa	Marine Firemen's Union	Support	No

Comments: on behalf of the membership, we are in support of the bill.

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The Twenty-Eighth Legislature  
Regular Session of 2016

THE SENATE

Committee on Water, Land, and Agriculture

Senator Mike Gabbard, Chair

Senator Clarence K. Nishihara, Vice Chair

Committee on Transportation and Energy

Senator Lorraine R. Inouye, Chair

Senator Mike Gabbard, Vice Chair

Hawaii State Capitol, Room 229

Tuesday, February 9, 2016; 2:45 p.m.

**STATEMENT OF THE ILWU LOCAL 142 ON S.B. 3022  
RELATING TO FERRIES**

The ILWU Local 142 supports S.B. 3022, which requires the Department of Land and Natural Resources to conduct any necessary environmental assessment for the establishment of an intra-state or inter-state ferry system and makes an appropriation. Also provides a non-refundable tax credit and a fifty percent reduction in harbor fees for the first year of operation for any company operating an inter-island ferry vessel.

Hawaii residents and businesses have been challenged for years with the cost of travel and transportation between the islands. One airline has a virtual monopoly for passenger travel between the islands. Ferry service was tried and failed for more than one reason. The Hawaii Superferry seemed to have gotten the closest to being successful, but was scuttled because of opposition by environmentalists.

The time is now for the State to consider another ferry service between the islands—and do it right this time. S.B. 3022 provides for an environmental assessment to reassure the public that environmental issues have been fully considered. There may still be those who will oppose, but with an assessment, concerns may be addressed and mitigated.

A ferry between the islands is needed as a competitive option for resident travel. When the Hawaii Superferry was in operation from Oahu to Maui, residents from both islands were able to drive their vehicles onboard, then drive off at their destination to visit family, friends, and visitor sights. It was convenient and less costly than having to park at the airport and rent a vehicle. Airlines, car rental companies, and even airport parking vendors may balk at the loss of revenue, but there is sure to be plenty of travelers on airplanes and renting cars. Currently, with only airline travel as an option, neighbor island residents particularly are at a disadvantage with their options severely limited due to cost and inconvenience.

A ferry between the islands is also a needed option for businesses. When the Hawaii Superferry was in operation, Love's Bakery would load fresh baked bread onto their trucks, drive the trucks onto the ferry, then drive off the ferry directly to stores. Residents on Maui were able to enjoy bread baked that very day, and the company was able to enjoy some cost savings.

The tax credit to the ferry operator is a reasonable incentive for an operator to consider undertaking a major investment of resources to fund this project that will benefit the entire state.

The ILWU urges passage of S.B. 3022. Thank you for the opportunity to testify on this measure.

TESTIMONY OF MICHAEL N HANSEN, PRESIDENT  
HAWAII SHIPPERS' COUNCIL

BEFORE THE SENATE:  
COMMITTEE ON WATER, LAND, AND AGRICULTURE  
AND

COMMITTEE ON TRANSPORTATION AND ENERGY  
28<sup>TH</sup> LEGISLATURE, REGULAR SESSION OF 2016  
STATE OF HAWAII

CONFERENCE ROOM #229, 2:45 P.M., TUESDAY, FEBRUARY 9, 2016  
HAWAII STATE CAPITOL

SENATE BILL NO. 3022 (SB 3022)  
RELATING TO FERRIES

Good afternoon Chairs Gabbard and Inouye and distinguished members of the Committees:

I am submitting testimony on behalf of the Hawaii Shippers Council in support of the broad intent of Senate Bill No. 3022. However, we have several reservations regarding the bill's approach and particulars, and believe the provisions are probably premature.

The Hawaii Shippers' Council is a business league organization incorporated in 1997 to represent merchant cargo interests -- known as "shippers" -- who tender their goods for shipment with the ocean carriers operating in the Hawaii trade.

At the Hawaii Shippers' Council we believe that the prospects for a Hawaii interisland ferry should be well researched and seriously considered by the Hawaii State Government.

As such, we would point out the several issues we see with the bill:

1. Was the Hawaii Superferry a success?

The Section 1 preamble of the bill, states in part that the "limited run of the Hawaii Superferry did prove to be a successful mode of transportation," which may be somewhat overstated and misunderstood. In fact, contrary to this statement, the Hawaii Superferry did experience significant operating and financial issues with its inter-Hawaiian Island ferry service.

The operating model employed by the Hawaii Superferry is usually referred to as a "Fast Ferry." The features of a Fast Ferry operation include, of course, the high speed of the ferry vessels as the name implies, typically around 40 knots.



Fast Ferry vessels operating at high speeds are intended to complete their trips (by virtue of shorter transit times resulting from high speed operation) within daylight hours (or, at least within 12 hours during the day as opposed to the night) eliminating the many of the kinds of onboard services and facilities necessary to operate a vessel 24 hours per day.

As a result of providing limited onboard services, Fast Ferry vessels typically do not have overnight cabins for passengers and crew, full scale catering arrangements to prepare three meals per day (for passengers and crew), do not employ a large hotel staff on board, and only carry a single marine crew watch (as opposed to 2 or 3 watches to operate around the clock). This was true of the Hawaii Superferry.

Fast Ferry vessels are typically constructed of aluminum in a catamaran (or, trimaran) hull configuration to limit light ship weight, reduce hull resistance and facilitate vessel speed. The two Hawaii Superferry vessels were aluminum catamarans with water jet propulsion.

Limited provision of onboard services and operating hours significantly reduce certain operating costs of a Fast Ferry, as opposed to conventional mono-hull ferry constructed of steel with a screw propeller for propulsion. Conventional ferries operate at slower speeds – in the range of 18 to 28 knots – and typically include full facilities on board and carry a full hotel staff and marine crew to operate around the clock to complete their trips at slower vessel speeds.

The Hawaii Superferry Fast Ferry operation incurred significant operating problems. For instance, the Hawaii Superferry vessel ALAKAI was not able to maintain its schedule between Honolulu Harbor, Oahu Island, and Kahului, Maui Island, during certain winter months due to the heavy weather. A winter service hiatus came into effect after the ALAKAI incurred damage to its aluminum hull in the Pailolo Channel (between Molokai and Maui) attempting to maintain service speed in heavy weather.

Although a Fast Ferry limits certain operating costs, in order to maintain its high speed, it must consume significantly large amounts of high quality distillate fuel at a considerable operating expense. This was true for the Hawaii Superferry.

The Hawaii Superferry did not attract the load factors and as a result revenues originally projected for a number of reasons. Despite its high speed (and fuel consumption), the Hawaii Superferry ALAKAI was largely scheduled for a single trip per day (port rotation: Honolulu, Kaului, Honolulu), except for a limited time during the late summer when the sea conditions were the most favorable and two voyages could be scheduled per day.

In terms of generating passenger traffic, the Hawaii Superferry's single departure per day (from Honolulu and Kahului) was not competitive with the high frequency of airline departures each day on the same route. The transits between the main ports in Hawaii conditions are simply too long and sea conditions too rough to allow for higher frequency operation by a Fast Ferry.

A Fast Ferry operation would be more successful on a shorter route and under calmer conditions where the ferry vessels could operate several trips per day between large population centers offering several departures per day to a larger traveling public.

Although the proximate cause of the Hawaii Superferry bankruptcy in July 2009 was the adverse ruling on the need for a Environmental Impact Statement (EIS) by the Hawaii State Supreme Court, it is quite likely that if the EIS issue hadn't arose the operation would have failed for financial reasons.

In addition to the failure of the Hawaii Superferry, similar Fast Ferry operations around the world have also failed and been replaced by conventional ferry operations.

Perhaps it would be better to state in Section 1 preamble the "limited run of the Hawaii Superferry did show that there is significant demand for interisland ferry transportation and there continues to be widespread support for reintroduction for an interisland ferry service based upon that experience."

## 2. Ferry vessel tax credit

Section 2 of SB 3022 proposes a 5% state tax credit for any qualified private operator of an interisland ferry service during the operator's first year of operation.

A tax credit of such a de minimis rate for a single year while the operation is a start up would not offer any real incentive for an operator to consider entering the Hawaii ferry market. In particular, it would be highly unlikely that an operator would be sufficiently fortunate to earn a significant profit in their first year of operation to take advantage of a tax credit applying to their corporate income tax liability.

The descriptions of a qualifying ferry vessel and operator at proposed subsection (g) appear to be reasonable if not premature.

## 3. Dockage.

Section 3 of SB 3022 proposes to waive dockage charges that would otherwise be assessed by the Hawaii State Harbors Division against the ferry vessel for the initial first year of operation.

Dockage (sometimes known as "side wharfage") is a customary harbor user fee levied against a vessel for laying alongside a pier, wharf or other marine harbor structure.

The Hawaii State Harbors Division tariff already provides certain special lower rates for vessels engaged in interisland trade, for which any interisland ferry service would be eligible.



In addition, dockage charges would not be a major expense for an interisland ferry operator as defined in the proposed description in Section 2 of the bill and a waiver for the first year of operation would again not be meaningful towards inducing a ferry operator.

Large scale ferry operations including the one contemplated by SB 3022 given the description proposed in Section 2, will need purpose designed and built port facilities that are likely to involve considerable cost as was the case for the Hawaii Superferry for which the Hawaii State Harbors Division expended approximately U.S. \$62 million as determined by the Legislative auditor.

It would seem more appropriate to know what those expenses might be before discussing waivers for harbor user fees.

#### 4. Environmental Impact Statement (EIS)

Section 4 of SB 3022 proposes to appropriate some amount of Hawaii State general funds for the Hawaii State Department of Land and Natural Resources (DLNR) to conduct an EIS for some indeterminate future interisland ferry service.

This appears to be premature as the ferry operating model is not determined including vessel type, capacity, routing and schedules. The selection of vessel type has been described by experts as the single most important decision in the establishment of a ferry service because so much else is dependent on that decision. These variables would need to be determined in order to conduct a meaningful EIS to satisfy the requirements of Hawaii State Supreme Court decision of August 31, 2007, regarding the Hawaii Superferry.

It is also not clear why the bill selects DLNR to conduct the EIS, and why not the Hawaii State Department of Transportation (HDOT). The HDOT's Harbors Division drafted in 2008 a Preliminary Environmental Impact Statement (PEIS) for the Hawaii Superferry, which could be the basis for drafting a new PEIS/EIS for a new proposed ferry operation.

Alternatively, it has been proposed that the State Law referred to in the Superferry case decided in 2007 could be amended eliminating the need for an EIS covering the vessel operations. The Harbors Division has in place master EIS for the commercial harbors that would be used by any future ferry operation.

The proposed amendment to State law is as follows:

"Significant effect" means the sum of effects on the quality of the environment, including actions that irrevocably commit a natural resource, curtail the range of beneficial uses of the environment, are contrary to the State's environmental policies or long-term environmental goals as established by law, or adversely affect the economic welfare, social welfare, or cultural practices of the community and State. **"Significant effect" does not include or require consideration of "secondary impacts" on the environment that may result from government action. This latter provision is retroactive to enactment of this chapter.**



## 5. Other Items.

In addition to the issues addressed by SB 3022, there are many other aspects of establishing an interisland ferry service that the State of Hawaii should address. Two of those aspects are as follows:

### Hawaii Water Carriers Act of 1974

The Hawaii Water Carriers Act of 1974 as amended by Act 213 of 2011 imposes the requirement that any water carrier seeking a certificate of public convenience and necessity from the Hawaii State Public Utilities Commission (HPUC) must provide service to all the commercial ports currently receiving water carrier service. Act 213 of 2011 was enacted to impose the same requirements on Pasha Hawaiian Transport Line LLC as Young Bros. Ltd. to provide service as opposed to just serving from Honolulu the largest outports of Kahului and Hilo.

It appears Act 213 of 2011 would impose on any prospective ferry operator the requirement of serving all the ports that Young Bros. serves today. In all likelihood this would not be feasible on a commercial basis.

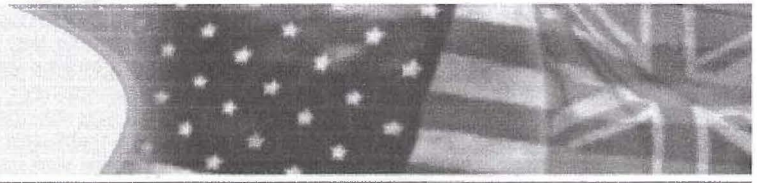
### U.S. Ship Build Requirement.

The requirements of Section 27 of the U.S. Merchant Marine Act of 1920 commonly known as the Jones Act that any vessel transporting merchandise (i.e., cargo) by water between coastwise points in the U.S. must be constructed in the U.S. The Passenger Vessel Services Act of 1886 has the same requirement for the carriage of passengers by water between domestic points within the U.S.

The cost of constructing large oceangoing self propelled ships in the U.S. is now typically five times the cost of building comparable ships in Japan and South Korea where approximately 70% of such ships in the world are built. There is no shipyard in the U.S. regularly constructing ferry vessels and the only deep sea ferry operation in the U.S. that might be an analogy for inter-Hawaiian Island service would be the Alaska State Ferry System, which cannot replace their ageing fleet due to cost.

Obtaining an exemption from the U.S. build requirements of the federal coastwise laws would be a critical aspect to reestablishing an interisland ferry system. This would be similar to the exemption the late Senator Daniel K Inouye successfully obtained for Norwegian Cruise Line (NCL) to operate large cruise ships in the Hawaii trade.

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Street Bikers United Hawaii (SBU) Submissions

February 06, 2016

Bill SB No. 3022 RELATING TO FERRIES

Titled: “Transportation; Ferry System; Harbors; Inter-island Ferry; Tax Credit; Appropriation”

Presenter: Bruce Paige, State Director  
Residence: Pearl City  
Email: bpaigeco@gmail.com

Introducer(s): GALUTERIA, INOUYE, KIDANI, SHIMABUKURO, Dela Cruz, English, Harimoto, Keith-Agaran, Kim, Kouchi, Nishihara, Riviere

Description:

Requires the Department of Land and Natural Resources to conduct any necessary environmental impact assessment for the establishment of an intra-state or inter-state ferry system and makes an appropriation, provides a non-refundable tax credit and a fifty per cent reduction in harbor fees for the first year of operation for any company operating an inter-island ferry vessel.

**SBU Recommends Its Members Support Bill SB3022 on the Grounds It Is In The Best Interests of the State, Its Residents, and the Hawai'i Motorcycle Community**

**SECTION I-The Need for an Statewide Ferry System (SFS) Supported By Four Major Reasons: (1) Security; (2) Economics; (3) Social Equity (4) Quality of Life**

Although, there may be many reasons and rationales to justify the immediate implementation of an inter-island ferry system (we call the Statewide Ferry System or SFS in this paper), to serve as a water highway linking the various parts of our great state, SBU has focused on four major areas of benefit. In no specific order we list them in the foregoing heading and address each below. We note that the legislature recognizes most or all of these benefits either in this proposed bill or in a number of other bills (herein call “Related Ferry Bills”)<sup>1</sup> that are also being proposed in the House of Representatives and the Senate in 2016. We believe it is instructive to describe why SBU believes there is tremendous of support for this bill by the majority of residents, and is opposed to a small but vociferous group of powerful special interests, who succeeded in “sinking” the last attempt to create a united State through the first SFS attempt under the Hawaii Superferry.

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<sup>1</sup> “Related Ferry Bills” in this paper means and includes SB3090, HB2762, HB2670, SB2798 and HB2756 or any combination thereof



Security: There are many levels and types of security issues facing our state and its inhabitants. Although, the SFS is not a panacea for all Hawai'i security issues it certainly can have a positive or remedial effect on many of them if legislators are serious about making this new initiative work for the benefit of the state and its citizens. The first kind of security concern that often comes to mind for Hawai'i residents is natural, environmental and manmade disasters. Whether it be volcanic activity, hurricanes, tsunamis, wild fires, earth quakes, flooding, and contamination or epidemiological disasters. Getting personnel, equipment and machinery to the sites of disasters quickly, inexpensively and effectively is a priority to save lives, assist with medical and aid services, and repair or remedy property loss and damage. At present the state relies on the diverse base military resources and civil air transport primarily located on Oahu to achieve these objectives. Although, each has and will continue to play an important role, a SFS would be of invaluable assistance in providing a substantial capability in moving people, equipment, machinery and resources to central locations for reallocation to critical zones in times of disaster.

A second form of security at the individual and family level. Whether in wide scale disasters where evacuation may be critical or where persons or families are faced with the need for mobilization of themselves and their belongings to another part of the state the SFS would be invaluable. It could be a medical issue, a family crises, of even a financial crisis that necessitates the individual or family relocate (possibly to reunite with other family and Ohana) on another island. At present it is difficult, time consuming, and expensive for individuals and families to move themselves and their "important assets and belongings" to another island rapidly by air or cargo ship. If they could just pack up their truck and drive onto the "Ferry", to go to Tutu's house by tomorrow, it would be a godsend. It is a dream right now, but it was a reality for some Hawai'i residents in 2008 with the Superferry and it can be that way again for residents on all the major islands (i.e. Kauai, Oahu, Maui and Hawai'i). As a British Columbian, who enjoyed the benefits of a SFS (BC Ferries<sup>2</sup>), although I lived and attended university on Vancouver Island I could drive home to the Okanagan Valley during breaks, holidays and for family crisis that would have been prohibitively expensive if I had to rely on air travel alone. Young people, families and the elderly face the same problems in Hawaii. They want to have autonomy to live, work and go to school in one part of Hawai'i, but they still need to stay close to their loved ones. The SFS can achieve this better than air travel or cargo ships, because Ferries allow "travel with transportation".

Economics: Admittedly, special interests who enjoy a "Transportation Monopoly" such as the airlines, shipping corporations, taxi companies, and car rental companies, for instance, would not view the introduction of a SFS as economically beneficial. Of course from a monopoly perspective "transportation competition" cuts into profits. So if residents and tourists can take their transportation, even their lodging (i.e. camper, trailer or tent), with them when drive onto the Ferry it benefits the resident or tourists who has an alternative means or travel and lodging to the services offered by the monopolists. It shifts money, by way of cost savings, to the residents and tourists, who then have more spending capacity on other goods and services at their destination, which again helps other local businesses and services. Is it better to leave the monopoly profits with the special interests groups or let the Hawaiian residents and tourists have more cost savings to spend on other goods and services as they wish? That is an economic decision that law makers are being asked to decide with this bill and the other Related Ferry Bills presently proposed. SBU strongly recommends its members weigh the benefit of paying higher airline fees and shipping costs to transport their motorcycles from one island to another,<sup>3</sup> for example the combined cost of two riders and the bike return is about \$1,000 and takes one

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<sup>2</sup> See BC Ferries Website <http://www.hellobc.com/british-columbia/transportation-maps/ferry.aspx>. BC Ferries is the primary provider of ferry service in the province. They offer scheduled passenger and vehicle service to almost 50 ports of call along BC's coastline. Popular marine crossings occur between the mainland and Vancouver Island and the Gulf Islands, as well as the Sunshine Coast, an inlet-studded stretch of coastal mainland not accessible by road. In Northern BC, ferry service includes the Inside Passage, which links Vancouver Island and the region, and to Haida Gwaii, an isolated archipelago of islands.

<sup>3</sup> The average return flight to the "Big Island" \$350 including taxes. <http://www.cheapflights.com/flights-to-big-island/oahu/>. Although prices can vary widely based on airline and availability. The average cost of shipping a Motorcycle return to Hilo is



to two weeks, to ship the bike from Oahu to the Big Island. Other vehicles (cars, trucks, etc), are even more expensive. It is expensive, administratively complicated and very inconvenient to ship a motorcycle/vehicle, but without a SFS there is no choice. In the spring of 2008, the writer and his wife booked the Superferry for us and our bike on a Tuesday and we rode on the Ferry at Pier 19 in Honolulu Harbor early Thursday morning and were riding to Lahaina, Maui before lunch. We were back to Oahu by Friday lunch for less than \$300.<sup>4</sup> That is less than one third the cost of a very unattractive alternative, which is now the only option unless and until the SFS is reinstated. There is no question that the flow of people, goods and services will be substantially increased by the reintroduction of a SFS. This will be to the economic gain and benefit of the vast majority of state residents, but to the disadvantage of a tiny minority of privileged monopolists.

Social Equity: There are many ways to measure social equity and there is no right one. SBU is an inclusive organization that welcomes everyone regardless of race, color, religions, sex, age, the type of bike one rides, whether they belong to a club or ride as an independent. As long as our members are law abiding, show respect and aloha to other users of the road and enjoy the sport of motorcycle riding, they are welcome as members. SBU is a statewide organization, which like Hawai'i generally is based on respect, tolerance, and a spirit of aloha toward our fellow riders (and our fellow citizens). However, like our great state, SBU suffers from being divided. Almost all our membership and activities are localized and focused on Oahu. Part of this is due to the fact the largest concentration of our Hawai'i motorcycle community resides on Oahu, but nevertheless the other parts of the state are under represented by SBU. The reason is that we are divided physically by water. There is a general lack of association by riders on the other islands (especially Kauai and the Big Island) that they are part of the "Hawai'i Motorcycle Community" and instead they only see themselves as part of the Big Island Motorcycle Community or part of the Kauai Motorcycle Community. This view is becoming slightly less prevalent in Maui, but only slightly less and only recently has the view of Maui SBU member's belief that their interests, opinions, concerns and issues are shared and embraced by our Oahu SBU members. What is the basis for the ambivalence and isolationist perspective of motorcyclists on the other islands regarding our shared values, political interests, cultural interests, and commonalities as Hawaiian motorcyclist? Mostly, it is the water that divides us.

The marine boundaries between our islands creates a lack of physical exposure to one another and absence of community that binds us as a society. The Hawai'i motorcycle community has devised one means of counteracting this isolationist tendency, by what has become known as the "Labor Day Weekend Run". Once a year, in late August, Motorcyclists from every island (Kauai, Molokai, Lanai, Oahu and Maui) and even some from the mainland, ship their bikes to the Big Island, to spend the Labor Day weekend riding, socializing and reacquainting with fellow riders. There are no fixed rules, venues, or arrangements generally speaking, it is just understood that it is a time for everyone to join together and become a community of motorcyclists promoting good will and fellowship.<sup>5</sup> SBU holds Toy Parades on Oahu and Maui, which attract large crowds of spectators and large groups of motorcyclists, many from other islands.<sup>6</sup> Again these events are social events that bring motorcyclists together from different parts of the State to socialize, communicate and ride together, while creating a philanthropic event by raising toys and charitable donations for local Keiki and their families in need. In addition

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about \$300.00 return, by Matson, Inc., although it is based on the total cost of a container and the number of motorcycles that can be packed into it.

<sup>4</sup> <http://www.hawaiiinterislandsuperferry.com/hawaiisuperferrynews.html>. The cost was \$39.00/person each way and the bike was \$57.00 each way. See also <http://www.oahutomaui.com/about-us/newsroom/press/2009/39fares.html>.

<sup>5</sup> Between two to three thousand motorcyclists converge on various sites and locations around the Big Island during Labor Day Weekend Run. It is festive and very community oriented for all participants.

<sup>6</sup> The Oahu Toy Parade is the first Sunday in December each year and attracts five thousand motorcyclists from all over Oahu, the state and elsewhere. Maui's Toy Parade is held a week later and attracts hundreds of local motorcyclists as well as some riders from neighbor islands.



SBU has started a tradition of holding at least one state membership meeting on Maui each year<sup>7</sup>, again to allow Maui SBU members to have a direct input into the SBU state representation process. It is expensive to fly four or five SBU state executives to Maui for a meeting, but it is worth the confidence it instills in Maui members that their views, opinions and concerns really do matter just as much as Oahu members. Parenthetically, it would be one half or even one third the cost if we could just ride our bikes onto the Ferry for the Maui meeting, instead of flying and renting cars while we are in Maui. However, Maui SBU membership growth has markedly increased in the last two years, which we believe is at least in part due to this approach of increased inclusiveness SBU has embraced.

What do the Ferries, SBU and Social Equity in Hawaii have in common? SBU submits that it is a microcosm of Hawaii society, with the same types of problems, issues, concerns and aspirations. We believe that there is a general belief by residents, in the other parts of the state, that law makers, businesses and other leaders always put Honolulu/Oahu first, because it is the seat of government and the economic center of the state. This view has considerable support and substance when one looks how much attention and spending is lavished on Oahu at the expense of the residents elsewhere in the state. The best, but not the only example is the Rail Project on Oahu. What has this mega project (one of the largest in state history), offered anyone outside the Westside of Oahu? Nothing! Yet, every Hawai'i resident, business and consumer/tourist who pays state based taxes, will in part be paying for this project for a very long time. Some say forever, since there is no evidence it will ever be self-supporting and therefore it will likely always require state subsidies. The SFS on the other hand will inevitably be self-supporting. Although the SFS has many "public good" aspects that could lend it to be a "state-owned business", it can and has been effectively operated by the private sector in other states and countries as well. BC Ferries<sup>8</sup> is a privately owned and operated business that owns the largest fleet of ferries in the world, but it began its origins as a government owned and operated branch of the BC Ministry of Transportation and Highways and later became a "Crown Corporation" (still government controlled), prior to becoming privatized in 2003. Right next door to BC Ferries, even criss-crossing some routes, is the Washington State Ferry System (WSF)<sup>9</sup> the world's fourth largest ferry fleet, which is a "state-owned" operation. Both BC Ferries and WSF are models of operational efficiency, financially viable with impressive safety records, given the millions of personal and vehicle crossings provided by them

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<sup>7</sup> Traditionally all State Meetings for SBU were held on Oahu, since the State Capital is in Honolulu and SBU is a political advocacy organization first and foremost. However, it is recognized that the membership on the other islands can have as much influence and impact on legislative policy making at the state level as the Oahu SBU membership, so it makes sense to increase the involvement SBU membership on other islands in that political process as well. That was why meetings outside Oahu have become increasingly important to SBU. It is expensive to fly four or five SBU state executives to Maui for a meeting, but it is worth the confidence it instills in Maui members that their views, opinions and concerns really do matter just as much as Oahu members.

<sup>8</sup> [https://en.wikipedia.org/wiki/BC\\_Ferries](https://en.wikipedia.org/wiki/BC_Ferries) BC Ferries has the largest fleet of vehicle ferry vessels in the world. There are 36 vessels, ranging from small 16-car ferries up to 470-car "superferries". All of the vessels in use by BC Ferries are "roll-on, roll-off" car ferries. Most of the major vessels are based on similar designs, which are aggregated into "classes" of ferries.

At its inception, BC Ferries was a division of the British Columbia Toll Highways and Bridges Authority, a provincial Crown corporation. Through successive reorganizations, it evolved into the British Columbia Ferry Authority and then the British Columbia Ferry Corporation, both of which were also provincial Crown corporations. In 2003, the Government of British Columbia announced that BC Ferries, which had been in debt, would be reorganized into a private corporation, implemented through the passage of the Coastal Ferry Act[4] (Bill 18-2003). The single voting share of BC Ferries Corporation is held by the provincial government's BC Ferry Authority, which operates under the rules of the Act.

<sup>9</sup> [https://en.wikipedia.org/wiki/Washington\\_State\\_Ferries](https://en.wikipedia.org/wiki/Washington_State_Ferries) **Washington State Ferries (WSF)** is a government agency that operates automobile and passenger ferry service in the U.S. state of Washington as part of the Washington State Department of Transportation. It runs 10 routes serving 20 terminals located around Puget Sound and in the San Juan Islands, designated as part of the state highway system. The agency maintains the largest fleet of ferries in the United States at 24 vessels, carrying 23 million passengers in 2014. As of 2014, it was the largest ferry operator in the United States,<sup>[1]</sup> and the fourth-largest ferry system in the world. (citations omitted)

As of 2016, there are 23 ferries on Puget Sound operated by the state.<sup>[5]</sup> The largest vessels in this fleet carry up to 2500 passengers and 202 vehicles. They are painted in a distinctive white and green trim paint scheme, and feature double-ended open vehicle decks and bridges at each end so that they do not need to turn around. (citations omitted)



each year. BC Ferry was even recognized as one of the 100 most profitable companies in British Columbia.<sup>10</sup>

What BC Ferries and WSF have in common is their facilitation of residents' mobility in the SFSs respective service areas. Both these systems tie together communities that would otherwise be isolated. They allow trade and the movement goods and services which encourages competition and mobility. These services as SFSs bring people, families and communities together and ensure, to the greatest extent possible, that inclusivity is promoted. Shared values, communication, physical presence and increased socialization build communities with tolerance and understanding. The more citizens are included and made to feel and believe they are part of the "greater state community" the more they will feel comfortable participating in that community. Like SBU executives traveling to the other islands to show the members there that they are sincerely valued as part of the Hawaii SBU Motorcycle Community, the state legislators are showing their good faith in creating ways and means for residents in other parts of the state outside Oahu to physically trade, travel, socialize and cooperate with their fellow citizens on other islands. Bill SB 3022 and other companion/Related Ferry Bills,<sup>11</sup> proposed in the House and Senate, reinforce to Hawai'i residents throughout the state that they are valued and respected equally whether they live and work in Hilo, Kihei, Kaneohe or Lihue. That is a form of social equity the average Hawai'i resident can understand and appreciate.

Quality of Life: Much has been made in the past about the quality of life of certain special interest groups whose past efforts to "scuttle" the Hawaii Superferry were ultimately successful. These groups included the Sierra Club, certain Kauai and Maui residents who argued their life styles would be adversely affected by the Hawaii Superferry.<sup>12</sup> Also there were special economic interest groups who used their considerable financial resources to challenge the legality (constitutionality) of certain legislation that purported to exclude the Hawaii Superferry from meeting environmental impact scrutiny prior to commencing operations. Everything from the concern that the SFS could spread invasive species of plants or animals, encourage homeless persons to have easier access to Kauai, to the risk of the Ferries colliding with whales, was used as reasons to justify protests, blockades, vandalism and ultimately injunctions against the Ferries and their customers. The "death knell" for the Hawaii Superferry was the Hawaii Supreme Court's judgment that the legislation that permitted the SFS to operate while undertaking the environmental impact study was unconstitutional.<sup>13</sup>

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<sup>10</sup> Id. fn 7. On November 20, 2012, BC Ferry Services was listed as the 90th most profitable company in BC, with a net income of \$3,781,000 in 2011 and \$3,422,000 in 2010

<sup>11</sup> Id. fn 1.

<sup>12</sup> [https://en.wikipedia.org/wiki/Hawaii\\_Superferry](https://en.wikipedia.org/wiki/Hawaii_Superferry) The voyage to Maui was smooth and uneventful with a few environmental protesters observing peacefully at Kahului Harbor. However, about a dozen protesters on surfboards blockaded the ferry at Nawiliwili Harbor on Kaua'i. The Coast Guard cleared the ferry's path after 90 minutes.[20] Upon docking, protesters confronted passengers, including Kaua'i residents, and some vandalized cars. (citations omitted)

The protesters' concerns were that a ferry of this size traveling at speeds of about 40 mph (64 km/h) could strike and kill whales during its voyages despite this never occurring during the years the faster (50 mph) Seaflyte interisland ferries operated. Other concerns included the potential to import invasive species between islands, and the potential to bring drugs and homeless people to Kaua'i although it is unclear whether such risk was any different from the interisland airlines.

<sup>13</sup> Id. On March 16, 2009 the Hawaii Supreme Court ruled that allowing the Superferry to operate prior to completion of the environmental study was unconstitutional.[37] The company immediately suspended service and laid off its 236 employees

THE SIERRA CLUB v. DEPARTMENT OF TRANSPORTATION OF THE STATE OF HAWAII No. 29035 (March 16, 2009) Opinion pdf OPINION OF THE COURT BY DUFFY, J. **The main issue to be determined in this appeal is whether Act 2 enacted in the second special session of the 2007 legislature is constitutional. Sierra Club challenges the constitutionality of Act 2 on three separate grounds: (1) Act 2 is unconstitutional special legislation; (2) Act 2 violates the separation of powers doctrine; and (3) Act 2 violates the due process rights of Sierra Club and the public. Based on our analysis herein, we hold that Act 2 is unconstitutional as it is a special law in violation of Article XI, section 5 of the Hawai'i Constitution.**" [footnotes omitted]



For all those residents of Hawai'i that feel strongly about family values and traditions associated with being able to visit their family, their homes, their Ohana, and their departed loved one's places of rest on holidays, vacations, or special occasions, the restrictions placed on them by opposing a SFS places a genuine burden on them. They must either incur the costs, inconvenience and restrictiveness of air travel or forgo such visits all together or at least severely curtail them. This burden is created, because some other special interest groups see the physical barriers to travel and commutation around the state are an "advantage" the "rich can afford", but creates a financial barrier for everyone else. It is almost a feudal "siege" mentality where these special interests groups seem to see the ocean as their "moat" to keep the lower income or financially disadvantaged "off their island". This is "Un-American" and most certainly "Un-Hawaiian", where the spirit of aloha is based on inclusiveness and encourages respect, tolerance and hospitality to fellow residents and visitors alike. Quality of life that the SFS seeks to promote is the opposite of these elitists' views of the special interests groups. The SFS encourages trade, travel, free enterprise, communication and promoting the traditions and cultural values of Hawai'i that are associated with family, community cooperation, wellbeing and tolerance.

## **SECTION II-Past Lessons Learned**

The most important lesson the Hawaii Superferry experiment taught us is that we must respect our laws in the achievement of our goals or they may be used against us for ulterior motives. The Supreme Court recognized the constitutional duty to abide by rules put in place to ensure Aloha 'Āina, which is part of what the environment impact laws require all projects comply with. SBU commends the legislators for recognizing the need to meet these requirements as part of the preparation for a comprehensive plan of implementation for the SFS. However, the reason the Lingle administration attempted to partially circumvent the requirements for the environmental impact study ("EIS"), by allowing by the Hawaii Superferry project to undertake the EIS while "starting-up", was the tremendous commitment of capital to both fund the IES without cash-flow or even a guarantee that the results will be favorable was a tremendous deterrent to private sector investors. By proposed Bill SB 3022 appropriating the funds and commissioning the "...department of land and natural resources to conduct any necessary environmental impact assessments to enable the department of transportation to fully implement a Hawaii state ferry system", the legislators recognize this first critical hurdle must be overcome with public funds. To further allow any private group or organization interested in financing the SFS project to rely on the results of the ESI results eliminates the deterrent risk and greatly enhances the likelihood of a legitimate bidder coming forward with a viable proposal for the project. SBU strongly commends the Bill drafters for their insight.

Certain other parts of the Bill make sense from a pragmatic prospective. Requiring the size of the vessels be minimum capacity (i.e. 400 passengers together with vehicles and cargo proportionate to that volume of carriage as a ferry) ensures that any carrier operating the SFS meets minimum standards. The other requirements and incentives should be formulated more precisely based on consultations with experts from successful ferry operations such as BC Ferries and WSF, which have also been proposed by law makers in other complimentary or companion/Related Ferry Bills. The requirement of fifty-one (51%) percent of the SFS operator's revenues be from the Hawaii operations of the SFS is a "double-edged sword". On one hand it has the advantage of requiring a substantial corporate commitment to the project by the operator. On the other hand there may be very qualified operators whose size may allow them the financial wherewithal to finance the capital investment for such a substantial project, but by its very size it will not generate fifty-one (51%) percent of the SFS operator's revenues be from the Hawaii operations of the SFS. In fact it may make substantial revenues from its other operations to assist in the capital start-up costs of the Hawai'i SFS, so will such an operator be excluded by the "1% revenue requirement"? Hopefully not.

## **SECTION III-The Plan Going Forward In Support of Bill SB No 3022**

The first step is to complete the commissioned EIS and the legislators appear to have a logical well planned approach, as discussed above and endorsed herein by SBU.

The Bill does touch upon some possible incentives which are proposed including tax credits of five (5%) percent and a fifty (50%) percent reduction in Harbor Fees. These may be substantial incentives to an operating mature SFS, but they seem very small for a start-up enterprise contemplating at least a half billion dollar capital commitment to a project that has already failed once, albeit by legal impediment not by an actual "market failure". Nevertheless, it would seem in keeping with other government incentive programs to entice private funding of large capital intensive utilities or transportation infrastructure, there may be greater incentivizing needed through long term licensing and lease concessions, partial or full tax holidays during early start-up phase (first one or two years) and similar enticements to encourage substantial outlays of capital and resources in a risk related venture with: (a) no guaranteed return, and (b) various competitive or disruptive forces agitating against the SFSs project's success, based on the past experience of Hawaii Superferry.

**FINAL POSITION OF SBU ON BILL SB No. 3022**

SBU takes the position that the proposed Bill SB3022 is very meritorious, long overdue and a welcome relief to vast majority of residents and tourists outside of the west side of Oahu given the overwhelming level of financial support and political attention given to that other project, which taxes everyone but only benefits a few. This SFS project will likely be self-sustaining virtually from the outset of becoming a fully integrated operation and will benefit almost everyone except a small group of elitist special interest groups and a couple of powerful economic monopolies. SBU salutes the legislator's integrity in standing up for Hawai'i and its resident's interests on this bill and the Related Ferry Bills.

For all the forgoing reasons SBU recommends the adoption of the Bill SB 3022 as proposed to its members.

All of which is respectfully submitted:

On Behalf of Street Bikers United Hawaii (SBU)

*Bruce Paige*

Bruce Paige  
SBU State Director



**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 02, 2016 1:58 PM  
**To:** TRE Testimony  
**Cc:** mauibrad@hotmail.com  
**Subject:** Submitted testimony for SB3022 on Feb 9, 2016 14:45PM

**SB3022**

Submitted on: 2/2/2016  
Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Brad Parsons	Individual	Oppose	No

Comments: Still not feasible. Contemplating use of the wrong technology to make an interisland ferry economically feasible.

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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**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 9:05 AM  
**To:** TRE Testimony  
**Cc:** megan.pittsley@gmail.com  
**Subject:** \*Submitted testimony for SB3022 on Feb 9, 2016 14:45PM\*

**SB3022**

Submitted on: 2/7/2016

Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Megan Fox	Individual	Oppose	No

**Comments:**

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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**Kaala Coleman**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 07, 2016 9:53 AM  
**To:** TRE Testimony  
**Cc:** mandalaluna@yahoo.com  
**Subject:** Submitted testimony for SB3022 on Feb 9, 2016 14:45PM

**SB3022**

Submitted on: 2/7/2016

Testimony for TRE/WLA on Feb 9, 2016 14:45PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Victoria Holloway	Individual	Oppose	No

Comments: I urge you to vote No on this Bill. We do not need an EIS as we do not need a superferry. And to further provide tax subsidies for a superferry is literally inviting it in. We have a massive traffic congestion problem here on Kauai, and to bring more vehicles here on a regular basis would be a travesty, both for residents, whose lives are already negatively impacted by the traffic congestion, and for the visitors who come to our island looking for a peaceful and relaxing retreat. Those of us who choose to live here and to visit do so precisely because of the small-town nature of life here. We do not want or need hoards of people with their vehicles flowing in on a regular basis making Kauai a suburb of Honolulu. If we wanted to live in Honolulu we would move there. Please vote No on SB3022, thank you for your consideration and for protecting one of Hawaii's smaller islands.

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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