

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
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COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

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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 House Committee on
WATER AND LAND

Wednesday, February 8, 2017
9:00 AM
State Capitol, Conference Room 325

In consideration of
HOUSE BILL 465
RELATING TO THE BOATING SPECIAL FUND

House Bill 465 proposes to repeal the Boating Special Fund and transfer unencumbered boating special fund moneys and future revenues to the General Fund. **The Department of Land and Natural Resources (Department) offers the following comments.**

Should this measure be enacted, in order to keep Hawai'i's small boat harbors, boat ramps, moorings and related facilities operational, the Legislature would need to fully fund the Boating Program each year to ensure that all facilities including, but not limited to, small boat harbors, offshore mooring areas, launch ramps, parking areas, etc. remain open to the public. In Fiscal Year 2017, the Boating Special Fund was budgeted for \$19.5 million. This includes repair and maintenance of harbors, ramps, and navigational aids; the salaries and fringe benefits for 130 positions; and the salaries and equipment for eighteen of the Department's Division of Conservation and Resources Enforcement positions. Additionally, the Legislature would need to ensure that there is sufficient funding to cover overtime related to cruise ship operations and the implementation of the Facility Security Plans that are critical for cruise ships making port calls according to homeland security requirements.

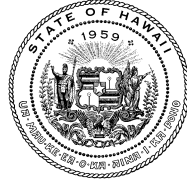
The Department notes that in addition to operational funding needs for Hawai'i's small boat facilities, the Department's Division of Boating and Ocean Recreation manages the ocean recreation program which is currently funded out of the Boating Special Fund. This includes regulating all recreational and commercial activities occurring in state ocean waters, implementing the statewide day use mooring program, removal of marine debris and grounded vessels, establishing recreational advisory committees, and mitigating ocean water use conflicts.

Also, there is approximately \$300 million dollars in outstanding deferred capital improvement projects (CIP). While the Legislature has funded a portion of this deferred CIP in recent years, there remains a substantial backlog needing Legislative CIP funding. If not, facilities will continue to fall into disrepair and will need to be taken out of service due to public health and safety concerns.

Thank you for the opportunity to provide testimony on this measure.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



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

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Ryan I. Yamane, Chair
and Members of the House Committee on Water and Land

Date: Wednesday, February 8, 2017

Time: 9:00 A.M.

Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 465, Relating to the Boating Special Fund

The Department of Taxation (Department) appreciates the intent of H.B. 465 and provides the following comments for your consideration.

H.B. 465 repeals the boating special fund. H.B. 465 additionally makes an amendment to section 248-8, Hawaii Revised Statutes, providing that all fuel tax revenues formerly deposited in the boating special fund will be deposited in the general fund. The measure is effective on July 1, 2018.

The Department is able to administer the changes made by this measure by the effective date.

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON WATER AND LAND
ON
HOUSE BILL NO. 465

LATE

February 8, 2017
9:00 a.m.
Room 325

RELATING TO THE BOATING SPECIAL FUND

House Bill No. 465 repeals the Boating Special Fund and transfers the unencumbered special fund moneys and future revenues to the general fund. The bill provides for operating and capital costs of the statewide boating program to be paid by general funds.

The Department of Budget and Finance opposes this bill. As a matter of general policy, the department supports the continuation of a special fund which meets the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need that cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. It appears that the Boating Special Fund meets all of these criteria, and is an appropriate mechanism to fund the statewide boating program.

Thank you for your consideration of our comments.

LATE

I am in opposition of HB-465.

Please do not repeal the special boating fund.

Fishermen and other boaters spend their hard-earned money on registering their vessels and trailers, and those funds should go directly to the facilities that serve these people.

As it is, Hawaii's boating facilities, including harbors, launch ramps and more, are constantly in dire need of maintenance. Taking away what little is available to ensure safe and secure harbors harms the people who depend upon them.

Aloha,
Dean Sensui, executive producer
Hawaii Goes Fishing.

kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 7:56 PM
To: waltestimony
Cc: shyla.moon@ymail.com
Subject: Submitted testimony for HB465 on Feb 8, 2017 09:00AM

HB465

Submitted on: 2/6/2017

Testimony for WAL on Feb 8, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shyla Moon	Hunting Farming and Fishing Association	Oppose	No

Comments: Copied from my email sent to reps with no reply. ??? Aloha Representative Lowen and Representative Luke, I feel it is a mistake to take our state boat fees and put them into the general fund permanently. Lumped into the general fund like a tax, but these are fees boaters pay. Our harbors need tender loving care and all the special funding they can get. Which I heard we on Kauai got funding to fix our harbors, which I anxiously await some infrastructure improvements. "(d) All revenues due to the State derived from leases of state boating facilities shall be deposited in the [boating special] general fund." http://www.capitol.hawaii.gov/session2017/bills/HB465_.htm I have copied my island Representatives, along with the Finance Committee to further discuss this with if this measure passes committee. Mahalo for your time, Shyla Moon

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Rep. Ryan I. Yamane, Chair
Rep. Sam Satoru Kong, Vice Chair

COMMITTEE ON WATER & LAND

February 7, 2017

OPPOSE HB465 Relating to the Boating Special Fund

HFACT is a not-for-profit, IRS 501c(5) organization, that advocates for small boat commercial, non-commercial, and recreational fishermen throughout Hawaii. HFACT board members sit on a number of federal fisheries management and endangered species advisory committees; and, HFACT is thoroughly familiar with and participates in ocean and marine resource management in Hawaii and the central Pacific.

HFACT **OPPOSES** HB465, relating to the boating special fund.

HFACT works with the Division of Boating and Ocean Recreation (DOBOR) on matters related to boat ramps, trailer parking areas, washdown areas and general maintenance and operations of small boat harbors throughout Hawaii. As a stakeholder in small boat harbors and a payor of fees, boat fishermen wish to have fees paid to go to a special fund rather than the general fund.

This bill, if passed, will accomplish two results:

(1) If passed, the passage will be view by fishermen as another “raiding” of a special fund by the legislature, and a creation of a tax upon fishermen to benefit the general fund. This action by the legislature will tarnish the committee and the legislature. It will also diminish any credibility of the Department of Land and Natural Resources for any future special fund that might be proposed, such as a special fund to hold recreational fishing license fees. The consequence of repealing the boating special fund will be wide and the “optics” is not good.

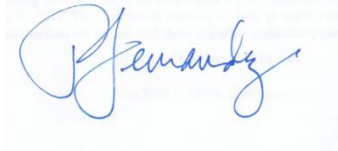
(2) If passed, this bill will undermine the work that DOBOR is attempting to accomplish. As small boat fishermen who utilize trailered boats, we find that DOBOR, while not perfect, has served small boat fishermen well. Small boat fishermen’s boat and ramp usage fees provide for parking of our tow vehicle and trailer, and access to ramps.

HFACT feels that the concept of the boating special fund has served fishermen well and we feel that it will continue to serve us well, The boating special fund should be left alone.

Hawai'i Fishermen's Alliance for Conservation and Tradition, Inc.
1082 Lunalilo Home Road, Honolulu, HI. 96825

HFACT thanks Chair Yamane, Vice-chair Kong, and committee members for this opportunity to provide comment.

Sincerely and Aloha,

A handwritten signature in blue ink, appearing to read "Phil Fernandez", is centered below the text "Sincerely and Aloha,". The signature is written in a cursive style with a large initial "P".

Phil Fernandez
President

waltestimony

From: mailinglist@capitol.hawaii.gov
Sent: Friday, February 3, 2017 8:34 PM
To: waltestimony
Cc: bcsc@hawaii.rr.com
Subject: Submitted testimony for HB465 on Feb 8, 2017 09:00AM

HB465

Submitted on: 2/3/2017

Testimony for WAL on Feb 8, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
William K. Chang	Individual	Oppose	No

Comments: I oppose this bill

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waltestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 6, 2017 8:32 AM
To: waltestimony
Cc: makani.christensen@gmail.com
Subject: Submitted testimony for HB465 on Feb 8, 2017 09:00AM

HB465

Submitted on: 2/6/2017

Testimony for WAL on Feb 8, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
makani	Hunting, Farming and Fishing Association	Comments Only	No

Comments: The Hunting, Farming and Fishing Association is providing comment only due to missing variables. How much money is in the special fund? Is there enough money in the special fund to make significant changes to our harbors and piers? Who is in charge of the special fund allocation? Currently our boat harbors and piers are in need of massive renovations. For example, for many years Heeia Pier boat parking area was in need of massive repairs. Until recent repairs were conducted, boat owners navigated massive pot holes which added extra wear and tear of trailers and boats. However, piers are still missing bumpers and cleats. The cleats that are on the Heeia piers old and rusty, which is a safety concern. The piers themselves look to be falling apart. These are safety issues that are common at most small boat harbors. Will moving money from the special fund to the general fund fix the current safety concerns at these boat harbors?

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kong2 - Crystal

From: Jason Hijirida <hawaiifundiver@hotmail.com>
Sent: Tuesday, February 7, 2017 6:24 AM
To: waltestimony
Subject: HB465

Dear Representatives,

I would like to oppose this HB465. I am an avid fisherman and have used all the boat harbors on Oahu. Our harbors have been slowly deteriorating needing asphalt repair, pier maintenance, ramp refurbishing to name a few things. Some harbors have major safety concerns which have not been addressed yet. By directing funds into the general fund will result in an unjust to harbor goers. Monies collected for the harbors should be earmarked to be used for maintaining harbors and not other State run programs.

Thank you for your time and I hope this HB465 doesn't pass.

Aloha,

Jason Hijirida

waltestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 12:15 PM
To: waltestimony
Cc: kalei95@hotmail.com
Subject: Submitted testimony for HB465 on Feb 8, 2017 09:00AM

HB465

Submitted on: 2/7/2017

Testimony for WAL on Feb 8, 2017 09:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Ivan Shigaki	Individual	Oppose	No

Comments: I am against this bill due to the unreliability and the no confidence that prop guards are indeed a solution to safe boating. I own a prop guard and here is my finding. In idle forward there is no difference. In fact the hole shot is a bit quicker. It's like a jet drive where a lot of water is funneled through the cage. At 7-8 knots you'll feel the steering get tight and making hard port or starboard turns becomes impossible until you let off the throttle, turn then throttle back up again. The cage is now a tunnel under water and all that water pressure makes it hard to steer. We haven't tested out the prop guard under full throttle thinking that if any of the 1/4 inch threaded bolts or the composite frame may break under pressure. Finally in reverse thrust, the water is sucked into the cage along with the exhaust bubbles creating cavitation. A couple of times I bumped the launch ramp finger in Hawaii Kai due to cavitation. Imagine if there was a paddler there! I'd run him over. Anyway, this is my findings on my 17 ft Parker with my Evinrude 88 SPL outboard. My friend Bill has a Yamaha 115 and he has the same results. In the unfortunate death of Sri Shim, the death was largely due to the fact that the operator of the boat hit Sri and his son while operating at a safe speed. According to the United States Coast Guard Navigation Rules and Regulations, Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions. In most accidents, safe speed is the leading factor. Having the ability to safely maneuver a vessel in the water is key to a safer ocean. Lawmakers need to fully educate themselves first instead of proposing unworthy Bills for an Act. Aloha!

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8 February 2017

Re. HB465

Chair Yamane, Vice Chair Kong, Committee Members:

The following is a synopsis of my oral testimony relating to HB465, which I provided earlier today. This synopsis is provided at the request of one of the clerks at the hearing and is not intended to be verbatim testimony that I provided in person.

As always, I appreciate you providing the public the opportunity to testify.

I note that the proposed legislation does not provide rationale for the proposed repeal of the special boating fund. There must have been solid reasoning for the establishment of the special boating fund.

The special boating fund is comprised of revenues derived from leases of state land for boating facilities and other user fees. The fund ensures that the revenues are returned to the users. Repeal of the special boating fund provides no assurance that the fees collected will be returned to the users who pay the fees. An analogous situation would be 10% state cut on the GET surcharge for rail. No one knows where that 10% goes.

Further, with repeal of the special boating fund, during periods of economic downturn, services provided by the fund will likely be reduced or eliminated. This scenario does not appear to be in alignment with the intent of the establishment of the special boating fund.

Everyone recognizes that the Department of Land and Natural Resources is underfunded. Small boat harbors state-wide require improved maintenance and repair. I am aware that the capital improvement shortfall is \$300M. To repeal the special boating fund will likely result in the exacerbation of the problem.

I am a boater. I work with the Department of Land and Natural Resources and the Division of Boating and Ocean Recreation regularly. My experiences with the staffs have been positive; I find personnel to be responsive and professional.

Another consideration: I am not an attorney. However, I read that circa 2008, a state court of appeals found that money collected for a special fund and transferred to the general fund made it an "illegal and unconstitutional tax."

Should there be a sense that there are nefarious actions ongoing, perhaps an independent audit of the fund is in order? If nothing else, I believe an audit would reinforce that the Division is underfunded.

Again, thank you for the opportunity to testify.

Sincerely,

A handwritten signature in cursive script that reads "Ronald Tam". The signature is written in black ink and features a large, sweeping flourish at the end of the name.

Ronald Tam