

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  
WAYS AND MEANS**

**Tuesday, April 3, 2018  
10:00 AM  
State Capitol, Conference Room 211**

**In consideration of  
HOUSE BILL 2380, HOUSE DRAFT 1, SENATE DRAFT 1  
RELATING TO DISPOSITION WITHIN STATE BOATING FACILITIES**

House Bill 2380, House Draft 1, Senate Draft 1 proposes to: (1) Clarify that the Board of Land and Natural Resources (Board) may lease all fast lands and submerged lands within any existing state boating facility pursuant to a request for proposals; (2) Require the Board to make a finding regarding certain sea level rise factors before approving any lease; and (3) Repeal fast lands and submerged lands lease requirements specific to the Ala Wai Small Boat Harbor in Section 200-2.6, Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) supports this measure.**

House Bill 2380, House Draft 1, Senate Draft 1 will allow the Department to generate revenue that will be used to support the Boating Program, which includes upgrades and improvements to state boating facilities.

Thank you for the opportunity to comment on this measure.

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

**ROBERT K. MASUDA**  
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

**HB-2380-SD-1**

Submitted on: 3/30/2018 8:55:13 AM

Testimony for WAM on 4/3/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Comments	No

Comments:

In part, HB 2380 seeks to repeal HRS Section 200-2.6, [https://www.capitol.hawaii.gov/hrscurrent/Vol03\\_Ch0121-0200D/HRS0200/HRS\\_0200-0002\\_0006.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0200/HRS_0200-0002_0006.htm).

Section 200-2.6 is specific Ala Wai Boat Harbor fast lands and submerged lands *lease requirements*, including those of the defunct Honeybee project.

Notably, the Attorney General’s testimony related to HB 1988 pointed out that the State’s governing legislation must be general in application and not selectively specific to any one entity or location (see [https://www.capitol.hawaii.gov/Session2018/Testimony/HB1988\\_HD1\\_TESTIMONY\\_FIN\\_02-28-18\\_.PDF](https://www.capitol.hawaii.gov/Session2018/Testimony/HB1988_HD1_TESTIMONY_FIN_02-28-18_.PDF))

Section 200-2.6 also includes a footnote relating to Act 197, 2011, Section 8 “*leasing requirements*” specific to Ala Wai Harbor (see [https://www.capitol.hawaii.gov/session2011/bills/GM1301\\_.PDF](https://www.capitol.hawaii.gov/session2011/bills/GM1301_.PDF)).

It must also be recognized, however, that the operative Section 200-2.5, which properly applies generally to all of Hawai’i’s recreational small boat harbors, also contains the same footnote referencing Act 197, 2011, Section 8, which would remain if not also repealed together with Section 200-2.6. See [https://www.capitol.hawaii.gov/hrscurrent/Vol03\\_Ch0121-0200D/HRS0200/HRS\\_0200-0002\\_0005.htm](https://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0200/HRS_0200-0002_0005.htm).

This oversight must be corrected in accordance with the Attorney General’s advisory.

Only then will HB 2380’s purpose to “repeal fast lands and submerged lands lease requirements specific to Ala Wai Boat Harbor” be achieved.

COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

Senator Gilbert S.C. Keith-Agaran, Vice Chair

HEARING: Tuesday, April 3, 2018

TIME: 10:00 A.M.

PLACE: Conference Room 211  
Hawaii State Capitol  
posed

Testimony of: Nancy, Ala Wai Boat Harbor waterfront resident

HB 2380, HD1, SD1: DISPOSITION OF STATE BOATING FACILITIES

**Opposed**

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**Senator Donovan Dela Cruz, Chair; Senator Gilbert Keith-Agaran, Vice-Chair; Committee Members;**

The Senate Draft amendment by WTL Committee addressing sea level rise shows Hawaii is keeping current. I suggest draft content benefit from simplification and further information.

In some cases, a larger scope is important to insure harbor leased land remains viable. For example, areas of the main access road in Ala Wai Harbor are lower in elevation than the central lot speculated. This fact became apparent in a 2017 King Tide when seawater flooded Holomoana Street. [see attached photos] Sea level rise will occur on the street first, limiting access to the leased land. For management, the state and lessees should be aware when an access road may become unserviceable. In SD1 sea level rise discussion, consider my suggestion for added criterion in yellow and deleted words in blue.



2017 King Tide flood of Holomoana St., Ala Wai Harbor, Honolulu.



Street drain seawater backflow

I offer these edits to improved comprehension and scope for HB 2380 SD1; red highlight removes, yellow adds.

Section 200-2.5, SECTION 1., (a) ..... no lease shall be approved by the board unless the board has ~~first~~ found that during the term of the lease:

(2) ~~The~~ Effect of sea level rise on ~~the area of~~ the land, ~~and its access road,~~ ~~to be leased~~ will be minimal.

(1) ~~The~~ Lessee has considered the risk of ~~gradual and rapid~~ sea level rise ~~associated with hurricane and tsunami events.~~ ~~on the area of the land to be leased.;~~ ~~and~~

Provided further, ~~that~~ the board may request authorization from the legislature ~~of, and the legislature may authorize,~~ a lease that does not satisfy the criteria ~~in~~ ~~under paragraphs subsection (1) and (2).~~ ~~where the board demonstrates the existence of extraordinary circumstances necessitating the lease.~~

With this measure that also removes specific reference to Ala Wai Harbor, please see note and cross references of HRS 171-53.

In conclusion, review of a harbors associated road is important for a lessee to establish land vulnerability to sea level rise. To be thorough on risk, consider adding criteria to the amendment subsections (1) & (2). Avoid posting excuse in the statutes by eliminating the phrase "extraordinary circumstances"; simplify for comprehension.

Thank you for reading and considering my testimony,

Nancy