



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WAYS AND MEANS

Friday, February 23, 2018
10:00 AM
State Capitol, Conference Room 211

In consideration of
SENATE BILL 2286, SENATE DRAFT 1
RELATING TO STATE SMALL BOAT HARBORS

Senate Bill 2286, Senate Draft 1 proposes to (1) require all use permits at Ala Wai Small Boat Harbor (SBH) to be obtained at public auction, (2) require that public notice of the public auction for a use permit at Ala Wai SBH be given and include certain information, (3) require all public auctions for use permits at Ala Wai SBH to be conducted by the Chairperson of the Board of Land and Natural Resources (Board) or an authorized employee of the Department of Land and Natural Resources (Department) under the direction of the Board without additional compensation, (4) allow the Chairperson of the Board to contract out auction services, and (5) make any use permits obtained by auction valid for 5 years. **The Department opposes this measure.**

Ala Wai SBH is the State's largest SBH with over 750 berths and moorings. The Department notes that mooring fee revenues at Ala Wai SBH, which are separate from revenue generated by land concessions, such as parking at the harbor unrelated to moorings, do not cover the cost of management, maintenance, repairs, replacement, and improvements to mooring slips and associated infrastructure used by boaters moored at the harbor.

The Department appreciates that the Legislature recognizes the high value of use permits at Ala Wai SBH and the importance of generating revenue to support the State's boating and ocean recreation program as well as reducing the need for state taxpayers to subsidize underutilized facilities. However, the Department notes three major issues with this measure: (1) auctioning mooring permits would allow a winning bidder to circumvent the existing mooring permit wait list; (2) auctioning permits would give wealthier individuals an unfair advantage in obtaining permits; and (3) this measure applies to all "use permits" for Ala Wai SBH, as opposed to only "mooring permits" for Ala Wai SBH.

There are currently over 750 individuals signed up on the wait list for a mooring permit at Ala Wai SBH. For mooring permits specifically, if an auctioning system were put into place, wealthier individuals would not only be able to obtain mooring permits without having to sign up on the Department's wait list but would also be able to outbid any other bidders. This would be unfair to the numerous individuals who have already signed up on the wait list, some who have been waiting for years and continue to wait to be offered a mooring permit in the order of the wait list.

By using the term "use permits," this measure would include all mooring permits, liveaboard permits, and commercial use permits for Ala Wai SBH. Thus, the concern about wealthier individuals unfairly being able to obtain permits would apply to all permits at Ala Wai SBH. With regard to commercial use permits, large companies would almost always be able to outbid smaller businesses, thereby preventing smaller companies from entering the market and stifling competition.

If the Committee decides to pass this measure, the Department believes that a more efficient and effective approach is to set mooring and liveaboard fees in Section 200-10(c), Hawaii Revised Statutes, by appraisal at fair market value. Such language would clarify that the intent of the appraisal is to charge fair market value and not just recoup costs. This process would be procedurally easier and ensure that the mooring permits are issued in an efficient and timely manner.

Thank you for the opportunity to comment on this measure.



COMMITTEE ON WAYS AND MEANS

Senator Donovan M. Dela Cruz, Chair

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

DATE: Friday, February 23, 2018
TIME: 10:00 AM
PLACE: Conference Room 211

**TESTIMONY OF THE OCEAN TOURISM COALITION SPEAKING IN STRONG
OPPOSITION TO SB2286: Public Auction of Ala Wai Permits**

Dear Senator Dela Cruz, Chair; Senator Keith-Agaran, Vice Chair and Members of
Ways and Means Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC),
speaking in **Strong Opposition to SB2286** proposing to Auction Permits at Ala Wai
Small Boat Harbor.

The OTC represents over 300 small ocean tourism businesses state wide which
have been in business for decades. Most of these are family businesses which are
locally owned and operated and are an important and valued part of their
respective communities. Most of these businesses operate from State Boating
Facilities. If this Bill should pass and were ever applied to the Commercial
Operators, it would have a massive detrimental impact on each one of these
businesses.

There is a long standing protocol for how permits are issued in Small Boat Harbors
and Boating Facilities across the State of Hawaii. An individual puts their name on
a waiting list, continues to renew it each year until all the names ahead of them
on the list have been satisfied. At that point if a slip/permit comes available that
person has first right of refusal for that slip/permit. These permits must be
reapplied for each year and are good for no longer than 12 months. If the
permittee is in violation of any Federal, State, or County rules they may be denied
their permit and it would go to the next person in line.

To Auction off these long standing permits to the highest bidder would first of all create a massive hardship for the current permit/slip holder. These slip/permit holders own vessels which occupy the slip. For them to lose the slip by being outbid by some other entity would immediately put them in the untenable position of having a vessel with no place to moor it.

However, if this plan were to be applied to the Commercial Operators it would be disastrous. The commercial Ocean Tourism Industry was really established by the DOT-Harbors in the early 1980's when DOT-Harbors and the Legislature legitimized commercial boating in Small Boat Harbors and placed strict rules and limitations on Commercial Boating. Most of the Commercial Boating Businesses operating out of DLNR/DOBOR Harbors today, trace their beginnings to that time.

The Ocean Tourism Industry is a very labor and capital intensive business. It takes several years to have a vessel built and decades to pay off the bank loan. It took several decades for the Banks to realize that the Ocean Tourism Industry was a legitimate risk and finance the vessels needed. The workers in this industry have a secure future and career path and many make it their life profession as a Merchant Seaman Mariner. A law like SB2286 contemplates, applied to the Commercial Boating industry, would disqualify our members from ever getting a Bank Loan for building vessels. It would make it almost impossible to do the long range planning, sign long term contracts, attract long term employees, necessary to have an Ocean Tourism Industry if our business window was only a few years and then would be subject to public auction.

The current system of permit/slip acquisition may not be perfect, but it is fair and reasonable and gives stability to our harbors and slip/permit owners having the reasonable expectation that if they keep all Federal, State and County laws they will be able to keep their vessel in the slip for another year.

Please do not pass this fund raising measure SB2286 which would hurt so many people and help so few and would disenfranchise the people that have been on the waiting list for decades hoping to be able to berth a vessel in the Ala Wai.

However if you determine that passing this Bill is the best course of action for our State, then please exempt the Ocean Tourism Businesses from this proposed legislation. Sincerely, James E. Coon, President OTC

A handwritten signature in black ink, appearing to read "James E. Coon". The signature is fluid and cursive, with a large loop at the beginning and a distinct end.

SB-2286-SD-1

Submitted on: 2/20/2018 12:04:44 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Mark Almaraz	Testifying for Atlantis Adventures	Oppose	No

Comments:

Aloha,

My name is Mark Almaraz and I represent Atlantis Adventures who have operating sites on Maui, the Big Island and Oahu. Knowing that commercial slips exist at the Ala Wai Harbor; we **strongly oppose** SB 2286, even as recently ammended by WTL, due to the dangerous precedent this bill sets in the proposed auctioning off of commercial use permits.

State of Hawaii

Ways and Means Committee

Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair
Members

Nancy Mueting <nancymueting@hotmail.com>

Harbor landside property beneficiary

Hearing February 23, 2018; 10A.M., rm. 211

AGAINST HB2286 Relating to Ala Wai Harbor use permits by auction

Reason 1: Specific law proposal that apply only to Ala Wai Harbor is unconstitutional. Per A.G., Russel Suzuki in his testimony for HB1988, 'the legislature may only exercise general law against state lands'. (Hawaii constitution, Article XI, section 5) Reconsider. Boat use permits by auction for all harbors may not be a supported measure.

Reason 2: The auction method for slip use permits is averse to human nature, especially liveaboard. There should be provision for their stability, being the eyes and ears of harbors.

I encourage the committee to align this bill constitutionally and yield respect for live aboard in harbors.

Thank you for the opportunity to testify.

N.

SB-2286-SD-1

Submitted on: 2/20/2018 3:43:45 PM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Rick Gaffney	Individual	Oppose	No

Comments:

Our members across the State of Hawaii strongly oppose SB2286 SD1 for several reasons:

- 1) it will prove to be a huge deriment to the creation and longevity of ocean recreation businesses as no serious business operator would be willing to take the risk of having to re-bid for a berth in the heart of the tourism industry every 5 years.
- 2) the bill includes language regarding the Department of Transportation Harbors Disvision, buurt DOT-Harbors has nothing to do with Ala Wai Yacht Harbor which is a DLNR -BOR facility or those who use the Ala Wai.
- 3) DLNR-BOR already has a tried a proven system of allotting vacant slips with a waiting list. That system ain't broke and doesn't need fixing.
- 4) DLNR-BOR has failed to take advantage of numerous opportunities to generate additional revenues off its substantial property holdings statewide, for decades. Inept management is what causes DLNR-BORs financial challenges. Don't compound that ineptitude by creating a new berth distribution system weighted toward the wealthy, and detrimental to one of Hawaii's most important visitor industry segments--ocean recreation.

Please DO NOT pass this bill.

Mahalo,

Rick Gaffney, President

SB-2286-SD-1

Submitted on: 2/21/2018 7:51:05 AM

Testimony for WAM on 2/23/2018 10:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Sandra L Dahl	Individual	Oppose	No

Comments:

I, Sandra Dahl, have a boat slip at the Ala Wai Small Boat Harbor for my 31' Sailboat. I had to pay a fee and put my name on a "wait list" and it took 3 (three) years before my name was reached, to get into the public harbor. I had to moor elsewhere for that three years. upon moving into the Ala Wai Harbor, I now could put my name on another wait list for liveaboard, it took 2 (two) years and 2 (two) months for my name on the liveaboard list to get liveaboard status. This system may seem slow, but it works, and once you are in a slip, as long as you maintain all the rules and requirements annually a person can maintain a living budget.

The word auction for a boat slip only brings the fear of losing my home to the highest bidder, as with "the money wins" at auctions and the rich usually win. So I oppose this, and I oppose having a two year lease and then I would have to rebid for the slip again and again as the stress alone would be unbareable,

There are other ways to raise money,

1. raising all the boat slips that were grandfathered in when the harbor did their upgrade about 9 years ago.
2. continue to fix the over 200 slips in need of repair, as then can be rented
3. A fuel dock would bring in money