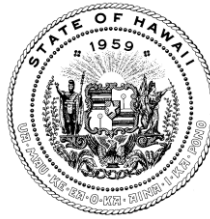


DAVID Y. IGE
GOVERNOR OF HAWAII



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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
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
FINANCE

Tuesday, February 26, 2019
1:30 P.M.
State Capitol, Conference Room 308

In consideration of
HOUSE BILL 1032, HOUSE DRAFT 1
RELATING TO STATE BOATING FACILITIES

House Bill 1032, House Draft 1 proposes to allow the Board of Land and Natural Resources (Board) to lease any existing state boating facility in its entirety, as well as fast and submerged lands within any existing state boating facility, by public auction, request for proposals, or direct negotiation for private development, management, and operation, with the prior authorization from the Legislature by concurrent resolution; and to repeal fast and submerged land lease requirements specific to the Ala Wai Small Boat Harbor. **The Department of Land and Natural Resources (Department) respectfully opposes SECTION 1 of this measure.**

SECTION 1, as currently drafted, would require the Department to obtain authorization from the Legislature by concurrent resolution for the leasing of both fast lands and submerged lands. Pursuant to the current language of Section 200-2.5(a), Hawaii Revised Statutes (HRS), the Department already has the authority to lease fast lands at all small boat harbors without the requirement of a concurrent resolution, and believes that only leasing of submerged lands should be subject to authorization from the Legislature by concurrent resolution. The Department therefore recommends that this measure be amended to clarify that a concurrent resolution would not be required for leasing of fast lands. Placing a restriction on the Department's ability to lease fast lands at small boat harbors would severely hinder efforts that are an integral part of revenue generation for the boating special fund due to inherent delay that would frustrate the commercial purpose for potential lessees and the Department.

Because of these concerns, the Department's opposition is limited to SECTION 1 of this measure.

Currently, Section 200-2.5(a), HRS, authorizes the Board to lease "fast lands and submerged lands within an existing state boating facility" by public auction, a request for proposals, or by direct negotiation pursuant to Section 171-59, HRS, and Chapter 190D, HRS, for private development, management, and operation, provided that any lease of fast lands or submerged lands pursuant to a request for proposals shall be subject to Section 200-2.6, HRS, regardless to which state boating facility the fast or submerged lands are attached. In turn however, Section 200-2.6, HRS, only addresses leases of the Ala Wai small boat harbor. The reference to Section 200-2.6, HRS, within Section 200-2.5(a), HRS, is therefore ambiguous and confusing.

The Department operates and manages sixteen harbors. Some harbors, including the Ala Wai small boat harbor, contain certain areas that are underused with significant revenue generating potential. Additional revenue derived from these underused areas would enable the Department not only to address repairs and maintenance more quickly but also use any surplus towards repairs and maintenance at other state small boat harbors and boating facilities. Many state boating facilities are in dire need of long overdue repair and maintenance. This measure would provide the Department with more flexibility and options to upgrade and improve state boating facilities in a timely manner, to the benefit of boaters and the public.

Additionally, in response to questions and comments received, the Department recommends an amendment to this measure to provide that the rent amount for any lease issued under Section 171-59(a), HRS, be set at no less than fair market value. Being able to assess fair market value for any leased property would allow the Department to maximize its revenue, which in turn would help to reduce the amount of state funds needed for supporting small boat harbor operations. The Department recommends a new section be inserted into this measure, to read as follows:

SECTION . Section 171-59, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) A lease of public land may be disposed of through negotiation upon a finding by the board of land and natural resources that the public interest demands it. Where the public land is being sought under this section by a sugar or pineapple company, and the company is the owner or operator of a mill or cannery, then, for the purposes of this section, the economic unit shall be that acreage of public land which when taken together with the lands already owned or controlled or available to the company, when cultivated is found by the board to be

necessary for the company's optimum mill or cannery operation.

~~[In all other cases, public land to be sold under this section shall be an economic unit as provided in section 171-33(3).~~

~~After a determination is made to negotiate the disposition of a lease, the board shall:~~

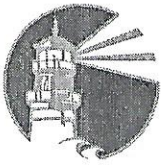
- ~~(1) Give public notice as in public auction, in accordance with the procedure set forth in section 171-16(a), of its intention to lease public land through negotiation setting forth the minimum conditions thereunder, the use for which the public land will be leased. Any person interested in securing the lease shall file an application with the board not later than forty-five days after the first publication of the notice;~~
- ~~(2) Establish reasonable criteria for the selection of the lessee; provided that where the intended use of the land is agriculture, the department of agriculture shall establish the criteria;~~
- ~~(3) Determine the applicants who meet the criteria for selection set by the board or the department of agriculture, as the case may be, and notify all applicants of its determination. Any applicant may examine the basis of the determination, which shall be in writing, to ascertain whether or not the conditions and criteria established by the board or the~~

~~department of agriculture were followed; provided that if any applicant does not notify the board of the applicant's objections, and the grounds therefor, in writing, within twenty days of the receipt of the notice, the applicant shall be barred from proceeding to seek legal remedy for any alleged failure of the board to follow the conditions and criteria.~~

~~If only one applicant meets the criteria for selection of the lessee, the board may, after notice as provided in (3), above, dispose of the lease by negotiation.~~

~~If two or more applicants meet the criteria for the selection of the lessee, the board shall select the lessee who submits the highest offer contained in a sealed bid deposited with the board.]~~ The rent amount for any lease issued pursuant to this section shall be at no less than fair market value determined pursuant to Section 171-17."

Thank you for the opportunity to comment on this measure.



Ocean Tourism Coalition

The Voice for Hawaii's Ocean Tourism Industry
1188 Bishop St., Ste. 1003**Honolulu, HI 96813-2938
(808) 537-4308 Phone (808) 533-2739 Fax
timlyons@hawaiiantel.net

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NOTICE OF HEARING

DATE: Tuesday, February 26, 2019
TIME: 1:30 P.M.
PLACE: Conference Room 308

TESTIMONY OF THE OCEAN TOURISM COALITION IN OPPOSITION OF HB1032HD1 RELATING TO STATE BOATING FACILITIES

Aloha Chair Luke, Vice Chair Cullen, and Members of FIN Committee:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC), **speaking in Strong Opposition to HB 1032HD1 Relating to State Boating Facilities.**

The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. All of them operate from State Boating Facilities managed by DLNR/DOBOR.

OTC is against the privatization of State Boating Facilities at this time. DOBOR already has the authority to lease parts of harbors to private interests with BLNR and Legislative oversight (if submerged lands are involved). This is far different from privatizing an entire State Boating Facility.

Keep all our State Boating Facilities under State Control and do not allow private interests to control our State Harbors.

Please do not pass HB 1032 HD1.

Sincerely,

James E. Coon, President OTC