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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
WATER AND LAND**

**Wednesday, February 6, 2019
1:15 PM
State Capitol, Conference Room 229**

**In consideration of
SENATE BILL 1385
RELATING TO THE KANEHOE BAY REGIONAL COUNCIL**

Senate Bill 1385 proposes to require the Department of Land and Natural Resources (Department) to provide administrative support to the Kāneʻohe Bay Regional Council (KBRC); requires that the chairperson of KBRC be selected by the members on an annual and rotating basis; and requires KBRC to meet quarterly. **The Department opposes this measure.**

While the Department recognizes the importance of KBRC in shaping the regulations relating to Kāneʻohe Bay, the Department notes that KBRC has served its intended purpose and recommends that KBRC be repealed from statutory provisions. In 1992, the Kāneʻohe Bay Master Plan was completed. In 1993, KBRC was created to facilitate implementation of the Kāneʻohe Bay Master Plan and provide Kāneʻohe Bay regulatory recommendations to the Department. On November 7, 2011, the recommendations in the Kāneʻohe Bay Master Plan were implemented as Section 13-256-73, Hawaii Administrative Rules (HAR).

As is the case with councils, committees, and other advisory entities implemented through HRS or HAR, the meetings of KBRC must follow "Sunshine Law" requirements, pursuant to Chapter 92, HRS. Meeting Sunshine Law requirements is often difficult for these advisory entities due to having to coordinate members' schedules. Further, KBRC is a voting council and is therefore required by Sunshine Law to have quorum to both hold its meetings and vote on matters. Because KBRC did not have quorum for a period of time, it could not meet or vote.

The Department has encountered scheduling issues with its Maunalua Bay Recreational Advisory Committee (MRAC). Although MRAC was non-voting and would not need to have quorum, Department staff found difficulty in coordinating meetings to accommodate members'

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CONSERVATION AND RESOURCES ENFORCEMENT
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LAND
STATE PARKS

schedules, resulting in meetings being held infrequently and with only one or a few members. In 2018, the Department repealed language establishing MRAC from HAR provisions to allow MRAC more flexibility in scheduling its meetings.

To clarify, repealing KBRC from Hawaii Revised Statutes (HRS) would not cause KBRC to be eliminated nor prevent it from meeting. KBRC would still be able to meet with a more flexible schedule and would still serve in an advisory role to the Department. Likewise, Department staff would still plan to consult with KBRC for any matters regarding Kāneʻohe Bay before moving forward with any changes to its regulations.

The Department does not have adequate resources to fulfill the requirements of this bill as currently drafted. Should the Legislature decide not to repeal KBRC from HRS, the Department recommends that the Legislature include an appropriation in the amount of \$25,000 for half a position (0.5 FTE) and related administrative costs to provide administrative support to the KBRC, provided that this does not replace or adversely impact priorities indicated in the Executive Budget request.

Thank you for the opportunity to comment on this measure.



SB1385
RELATING TO THE KĀNE'ŌHE BAY REGIONAL COUNCIL
Senate Committee on Water and Land

February 6, 2019

1:15 p.m.

Room 229

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment will recommend that the Board of Trustees **SUPPORT** SB1385, which would remove any confusion regarding the extent to which the Department of Land and Natural Resources (DLNR) may provide administrative support to the Kāne'ōhe Bay Regional Council (KBRC).

The KBRC was established in order to assist in the adaptive implementation of the Kāne'ōhe Bay Master Plan, a community-driven planning document developed through the tireless efforts of longtime community members, including Native Hawaiian families with long, multigenerational ties to the region, to address a broad range of concerns over human activities in the culturally significant Kāne'ōhe Bay. Given the Plan's many cultural components and considerations, OHA is identified as a voting member of the KBRC. The DLNR, meanwhile, is the agency with direct regulatory jurisdiction over many of the activities discussed in the Master Plan; accordingly, the KBRC is appropriately housed within the DLNR.

Unfortunately, current statutory language states that "the [DLNR] shall not provide administrative support to the [KBRC], including providing staff, drafting, and other support at council meetings." This provision has resulted in substantial confusion over the degree to which DLNR staff may provide much-needed support to the KBRC, particularly given the DLNR Division of Aquatic Resources Administrator's role as chairperson of the KBRC, and the DLNR's direct regulatory role over provisions in the Kāne'ōhe Bay Master Plan. While OHA has sought to coordinate with DLNR staff to facilitate KBRC meetings, the continued confusion as to what this statutory provision actually prohibits DLNR from doing has substantially inhibited the KBRC from meeting and otherwise carrying out its important work.

Accordingly, OHA believes that the proposed removal of the statutory provision at issue, as well as the proposed amendments regarding the frequency of meetings and rotating chairperson roles, will greatly assist the KBRC in meeting its statutory mission.

Therefore, OHA urges the Committee to **PASS** SB1385. Mahalo nui for the opportunity to testify on this matter.

SB-1385

Submitted on: 2/5/2019 1:16:16 PM

Testimony for WTL on 2/6/2019 1:15:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

SB-1385

Submitted on: 2/2/2019 10:28:05 AM

Testimony for WTL on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mio Chee	Individual	Support	No

Comments:

SB-1385

Submitted on: 2/5/2019 12:13:23 PM

Testimony for WTL on 2/6/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments: