

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII**  
**DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
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**Testimony of**  
**SUZANNE D. CASE**  
**Chairperson**

**Before the Senate Committees on**  
**JUDICIARY**  
**and**  
**WAYS AND MEANS**

**Tuesday, April 6, 2021**  
**9:55 AM**

**State Capitol, Via Videoconference, Conference Room 211**

**In consideration of**  
**HOUSE BILL 1020, HOUSE DRAFT 1, SENATE DRAFT 1**  
**RELATING TO ADAPTIVE NATURAL RESOURCE MANAGEMENT**

House Bill 1020, House Draft 1, Senate Draft 1 proposes to: 1) authorize the Board of Land and Natural Resources (Board) to temporarily adopt, amend, and repeal certain natural resource rules by formal Board action at a publicly noticed meeting if the Board finds that such adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions; 2) require legislative and Board approval prior to the renewed adoption, amendment, and repeal of certain natural resource rule by formal action at a public meeting; and 3) require a report to the Legislature no later than twenty days prior to the convening of the Regular Session of 2023. **The Department of Land and Natural Resources (Department) supports this Administration measure and offers the following comments.**

The Department is responsible for managing and administering the aquatic and terrestrial wildlife resources of the State. These natural resources are impacted by a variety of environmental and anthropogenic factors, some of which may change rapidly and frequently. To effectively manage these natural resources, the Department needs the flexibility to quickly and efficiently implement adaptive management measures that are informed by the best available scientific information.

The administrative rule-making process prescribed by Chapter 91, Hawaii Revised Statutes, serves the important function of providing opportunity for public review and input. However, it is not designed for rapid implementation of adaptive management measures in response to

**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 MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

changing resource conditions. This bill would provide the Department with an additional tool to quickly implement certain temporary adaptive management measures, while also providing opportunity for public review and input.

Senate Draft 1 would require legislative approval, as well as Board approval, prior to renewed adoption, amendment, and repeal of natural resource rules established through this process. Having to wait for legislative approval would, in most cases, result in substantial delays and would defeat the purpose of this adaptive management authority. **The Department prefers House Draft 1, which does not require legislative approval.**

Thank you for the opportunity to comment on this measure.

  
OFFICE OF HAWAIIAN AFFAIRS  
‘Ōlelo Hō‘ike ‘Aha Kau Kānāwai  
Legislative Testimony

**HB1020 HD1 SD1**  
RELATING TO ADAPTIVE NATURAL RESOURCE MANAGEMENT  
Ke Kōmike ‘Aha Kenekoa o ka Ho‘okolokolo  
Senate Committee on Judiciary  
Ke Kōmike ‘Aha Kenekoa o ke Ki‘ina Hana a me nā Kumuwaiwai  
Senate Committee on Ways and Means

‘Apelila 6, 2021

9:55 a.m.

Lumi 211

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB1020 HD1 SD1, which would allow the Department of Land and Natural Resources (DLNR) and the Board of Land and Natural Resources (BLNR) to better manage our vitally important natural and cultural resources, by providing the DLNR and BLNR with the flexibility to quickly respond to changing resource conditions.

OHA has long supported better management of our ecologically and culturally critical nearshore resources, upon which many of our beneficiaries’ Native Hawaiian traditional and customary practices and subsistence lifestyles depend. For example, OHA invests in and advocates for community-based fisheries management proposals, which are based upon subsistence fishing communities’ intimate knowledge of, and deep and daily connection with, their nearshore waters. OHA notes that these communities’ efforts to more formally protect their resources can be frustrated by the long timeline of the HRS Chapter 91 rulemaking process, which has not allowed for the timely implementation of management measures necessary to address observed changes and conditions in the ocean environment as well as in associated human behavior.

HB1020 HD1 SD1 would authorize the DLNR to adopt an “adaptive management” framework, providing DLNR staff and the BLNR with the ability utilize a variety of real-time data and “feedback,” such as communities’ observed responses to management actions, to respond to the changing management needs of our dynamic and complex marine ecosystems. Such a framework would be a powerful tool not only because of its flexibility, but also because it would allow state management efforts to better incorporate the intimate knowledge and experience of those who are observing and connecting with our ocean resources on a daily basis.

Accordingly, OHA urges the Committee to **PASS** HB1020 HD1 SD1. Mahalo nui for the opportunity to testify.



Testimony Before The  
Senate Committee on the Judiciary  
Senate Committee on Ways and Means  
**IN SUPPORT OF HB 1020 HD1 SD1**  
April 6, 2021, 9:55AM, Room 211

Aloha Chairs, Vice Chairs and Members of the Committee on the Judiciary and Ways and Means,

I am Kevin Chang Executive Director of Kua'āina Ulu 'Auamo (or KUA). KUA works to empower grassroots rural and Native Hawaiian mālama 'āina groups to celebrate their places and pass on their traditions to better Hawai'i and achieve 'āina momona— an abundant, productive ecological system that supports community well-being.

KUA works to empower communities to improve their quality of life through caring for their environmental heritage together. We employ a community-driven approach that currently supports a network of more than 36 mālama 'āina community groups collectively referred to as E Alu Pū (moving forward together), 38 fishpond projects and practitioners called the Hui Mālama Loko I'a, and a growing hui of Limu practitioners all from across our state.

**KUA generally supports HB 1020 HD1 SD1.** The purpose of this bill is to authorize the Board of Land and Natural Resources to temporarily adopt, amend, and repeal certain natural resource rules by formal board action at a publicly noticed meeting if the Board finds that the adoption, amendment, or repeal is necessary to implement effective and adaptive management measures in response to rapidly changing resource conditions.

A primary function of KUA includes development of an 'auwai, a stream of resources tools, bridges and networks that help to cultivate and take community-based natural resource management work to greater levels. A core source of a healthy flow in this 'auwai includes policies that empower government to be more responsive and collaborative with place-based resources users who have the most long-term situated knowledge and dependence on their resources. Currently, DLNR is often hamstrung in its ability to adapt management policies and practices in a timely manner.

Taking decades to pass important resource protections is maladaptive especially in a time of climate change. The process suggested by this bill provide for a quicker response, time-bound restrictions and public input. The community-based subsistence fishing area (CBSFA) movement that many in our networks have contributed to was in part a response to government senescence and inability to respond. The cultural practices at the heart of the CBSFA law concern adaptive management and rely on a principle of subsidiarity, allowing decisions to be more timely and placed where the knowledge, responsibility, accountability and utmost impact exists. For this reason among others we see this as a step forward in caring for Hawai'i together with its people.

Mahalo for this opportunity to testify.  
Aloha 'Āina Momona.

**HB-1020-SD-1**

Submitted on: 4/4/2021 7:46:32 PM

Testimony for JDC on 4/6/2021 9:55:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Nakachi	Testifying for Moana Ohana	Support	No

Comments:

LONG Overdue. DOCARE needs this



**LATE**

April 5, 2021

Senator Karl Rhoads, Chair  
Senator Jarrett Keohokalole, Vice Chair  
COMMITTEE ON JUDICIARY

Senator Donovan M. Dela Cruz, Chair  
Senator Gilbert S.C. Keith-Agaran, Vice Chair  
COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, April 6, 2021  
TIME: 9:55 a.m.

Regarding: HB1020 HD1 SD1 Relating To Adaptive Natural Resource Management.

**Support the intent** HB1020 HD1 SD1 Relating To Adaptive Natural Resource Management,  
**and requests deferral of the bill.**

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 as well as state marine and coastal zone advisory committees; and, HFACT is thoroughly familiar with and participates in ocean and marine resource management in Hawaii and the central Pacific.

HFACT supports the intent of HB1020 HD1 SD1 but finds that the bill is seriously flawed in its attempt to implement adaptive management of natural resources. The measure appears to be an extension of emergency powers that the Department of Land and Natural Resources already has authorization.

HFACT is committed to working with the Department of Land and Natural Resources to make improvements to the currently proposed bill. Thus, HFACT requests deferral of this bill.

The operational definition adopted by the US Department of Interior and the National Research Council, a part of the National Academy of Sciences, characterizes adaptive management as an iterative learning process producing improved understanding and improved management of natural resources over time.<sup>1</sup>

They define adaptive management as:

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<sup>1</sup> Adaptive Management, The U.S. Department of the Interior, Technical Guide (2009)  
Adaptive Management Working Group, Chair: Olivia Barton Ferriter, Director, Conservation, Partnerships & Management Policy  
<http://www.doi.gov/initiatives/AdaptiveManagement/>

***Hawai'i Fishermen's Alliance for Conservation and Tradition, Inc.***  
***75-796 Hiona Street, Holualoa HI 96725***

“Adaptive management [is a decision process that] promotes flexible decision making that can be adjusted in the face of uncertainties as outcomes from management actions and other events become better understood. Careful monitoring of these outcomes both advances scientific understanding and helps adjust policies or operations as part of an iterative learning process. Adaptive management also recognizes the importance of natural variability in contributing to ecological resilience and productivity. It is not a ‘trial and error’ process, but rather emphasizes learning while doing. Adaptive management does not represent an end in itself, but rather a means to more effective decisions and enhanced benefits.”

Given this definition, HB1020 HD1 SD1 does not meet the definition of adaptive management.

Throughout HB1020, the bill refers to changes to management rules are “temporary” and that the trigger to implementing changes would be due to “rapidly changing resource conditions”. Clearly the words “rapidly changing” implies some form of emergency. Adaptive management is not a management tool only to be used when rapid changes are occurring or have recently occurred.

The Food and Agriculture Organization (FAO) of the United Nations state that with true adaptive management it must be must acknowledged that there was uncertainty when a rule was put into place, that the most careful selection of a rule could be flawed, that critical scientific knowledge may change over time, and that monitoring of a natural resource may show different results than anticipated in the original plan.<sup>2</sup>

If the legislative intent of HB1020 HD1 SD1 is truly “adaptive management” then the triggers to implement changes, adopt, amend, and repeal certain natural resource rules should include:

- (1) When the fundamental science, through advances and extensive study, is updated and revised, thus changing the initial basis for a rule;
- (2) When new data, through extensive monitoring of the natural resource, shows a change that requires a change in a rule;
- (3) When natural variability occurs, either positive or negative, that requires a change in a rule; or,
- (4) When a rule becomes moot, either because the rule is no longer working in the context of a natural resource management plan or the resource has fully recovered based on scientific study.

HFACT further suggests further comments for the committee’s consideration:

- (1) The term of any rule change should be limited to one year instead of two years.

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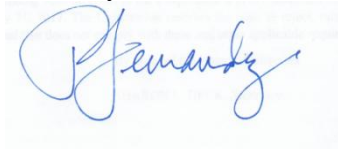
<sup>2</sup> Report of the International Technical Workshop, Londrina, Brazil, 24 to 27 June 2002, Annex 7  
Food And Agriculture Organization of the United Nations, Rome, 2003

- (2) A provision should be added that any rule adopted under this measure must have a scientific basis for the rule to continue beyond its term, and that DLNR commits to fund such scientific study during the year that the rule is in effect, and DLNR must submit a report to the Legislature on its findings of the scientific study.
- (3) While the bill may limit the term of any rule adopted under this measure, there is no limit to the number of times the rule could be extended. HFACT suggests that a limit be added to the bill.
- (4) HFACT concurs that adaptive management is a useful tool for natural resources management; however, any authority granted under this bill should not be used to create new rules that heretofore does not exist, such as using adaptive management to create fishing licenses or increase fees.

HFACT feels that passing this bill may be premature. Much work needs to be done to rewrite the bill. This bill is an important measure that needs additional discussion. HFACT is willing and able to assist the Department develop a more encompassing adaptive management bill.

HFACT thanks the chairs, vice-chairs, and committee members of both committees for this opportunity to provide comment and to assist in providing food to the people of Hawaii and to assist in the conservation of Hawaii's natural resources.

Sincerely and Aloha,



Phil Fernandez  
President