

DAVID Y. IGE
GOVERNOR OF HAWAII



**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
WATER & LAND**

**Thursday, February 4, 2021
9:00 AM**

State Capitol, Via Videoconference, Conference Room 430

**In consideration of
HOUSE BILL 1020
RELATING TO ADAPTIVE NATURAL RESOURCE MANAGEMENT**

House Bill 1020 proposes to 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. **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 rapidly 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.

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

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

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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 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.

The Department notes that the proposed bill, as drafted, would remove the Department's regular rulemaking authority for certain types of rules. The Department suggests amending the bill to preserve the Department's existing chapter 91 rulemaking authority, while adding adaptive management authority for certain types of rules. The following highlighted portions of the bill (page 2, line 20 – page 3, line 4; and page 6, lines 1-10) should be amended to preserve the existing statutory language.

SECTION 2. Section 183D-3, Hawaii Revised Statutes, is amended to read as follows:

"§183D-3 Rules. (a) Subject to chapter 91, the department shall adopt, amend, and repeal rules:

(1) Concerning the preservation, protection, regulation, extension, and utilization of, and conditions for entry into wildlife sanctuaries, game management areas, and public hunting areas designated by the department;

(2) Protecting, conserving, monitoring, propagating, and harvesting wildlife; and

~~[(3) Concerning size limits, bag limits, open and closed seasons, and specifications of hunting gear which may be used or possessed; and~~

~~(4)]~~ (3) Setting fees for activities permitted under this chapter, unless otherwise provided for by law.

The rules may vary from county to county or in any part of the county and may specify certain days of the week or certain hours of the day in designating open and closed hunting seasons,

except that any fees established by rule shall be the same for each county. All rules shall have the force and effect of law.

...

SECTION 3. Section 187A-5, Hawaii Revised Statutes, is amended to read as follows:

"§187A-5 Rules. (a) Subject to chapter 91, the department shall adopt, amend, and repeal rules for and concerning the protection and propagation of introduced and transplanted aquatic life, or the conservation and allocation of the natural supply of aquatic life in any area. ~~[The rules may include the following:~~

~~(1) Size limits;~~

~~(2) Bag limits;~~

~~(3) Open and closed fishing seasons;~~

~~(4) Specifications and numbers of fishing or taking gear which may be used or possessed; and~~

~~(5) Prescribe and limit the kind and amount of bait that may be used in taking aquatic life, and the conditions for entry into areas for taking aquatic life.]~~

The rules may vary from ~~[one county to another]~~ county to county or in any part of the county and may specify certain days of the week or certain hours of the day in designating open and closed fishing seasons. All rules shall have the force and effect of law. ~~[Any]~~ Except as provided by subsection (b), any person who

violates any of the rules adopted pursuant to this section shall be guilty of a petty misdemeanor and upon conviction thereof shall be punished as provided by section 188-70.

Thank you for the opportunity to comment on this measure.

LATE

HB-1020

Submitted on: 2/3/2021 2:04:57 PM

Testimony for WAL on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Kim Koch	Individual	Oppose	No

Comments:

I oppose giving the BLNR authority over the departments.

Resource management is very in-depth and takes a deep knowledge of understand. Many of the Board members do not have the depth of understanding in the particular/proposed area to make the decisions on resource management. While they are very intelligent in their own right, giving them power over a division seems foolish. Give the Division(such as DAR) the authority to manage.

Please oppose.

LATE

HB-1020

Submitted on: 2/3/2021 9:59:44 PM

Testimony for WAL on 2/4/2021 9:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Joshua DeMello	Individual	Comments	No

Comments:

Not sure if I support this bill or not. On the one hand it allows for quick management, on the other hand it may be dangerous to circumvent the existing Chapter91 process and seems to take away the mandate for DLNR to make those rules. Maybe revise this bill to have expedited timelines for the existing process in the event of emergencies