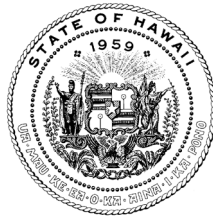


DAVID Y. IGE  
GOVERNOR OF HAWAII



**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**  
**FINANCE**

**Wednesday, March 31, 2021**  
**1:30 P.M.**

**State Capitol, Via Videoconference, Conference Room 308**

**In consideration of**  
**SENATE BILL 795, SENATE DRAFT 2, HOUSE DRAFT 1**  
**RELATING TO STATE SMALL BOAT HARBOR FEES**

Senate Bill 795, Senate Draft 2, House Draft 1 proposes to amend the various fees the Department of Land and Natural Resources (Department) may charge for the usage of state small boat harbors and amends the manner in which those fees are applied. **The Department strongly supports this measure.**

The Department's Division of Boating and Ocean Recreation has identified approximately \$300 million in deferred maintenance at small boat harbors and boating facilities statewide. Being able to assess fair market value at small boat harbors and boating facilities will allow DOBOR to maximize its revenue generating potential and perform much needed repairs and maintenance on these facilities.

This measure will also add the option to charge a commercial fee per passenger carried for hire, which would allow the Department to collect appropriate fee amounts in the event that an operator attempts to circumvent the gross receipt collection method.

An increase in fees collected under Section 200-10, Hawaii Revised Statutes, would go toward funding upgrades to state small boat harbor facilities resulting in improved sanitation, maintenance, and cleanliness of the small boat harbor facilities.

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

## PUBLIC TESTIMONY

Katherine Lindell  
*Hawaii Ocean News*

Honolulu, Hawaii

Tuesday, March 30, 2021, 11:30 P.M.

***This testimony has been published on the Hawaii Ocean News website  
(HawaiiOceanNews.com)***

*(This senate bill is scheduled to be heard on Wednesday, 03-31-21, 1:30PM, in House conference room 308, via video conference)*

*This testimony is intended for the following legislators:*

[Patrick Pihana Branco](#) [Amy A. Perruso](#)  
[Stacelynn K.M. Eli](#) [Jackson D. Sayama](#)  
[Daniel Holt](#) [Adrian K. Tam](#)  
[Greggor Ilagan](#) [Tina Wildberger](#)  
[Bertrand Kobayashi](#) [Kyle T. Yamashita](#)  
[Lisa Marten](#) [Bob McDermott](#)  
[Scott Y. Nishimoto](#)

**In consideration of**

**Senate Bill 795 SD2, RELATING TO PUBLIC BOAT HARBOR FEES**

**WE STRONGLY OPPOSE SB795, WITHOUT RESERVATION**, for the following reasons:

We strongly oppose SB795 for the following reasons:

***The State of Hawaii wants to double its own tenant's principal habitation rent right in the middle of a pandemic?***

The 2019 rate hike reflected in the modified version of 13-234 more than doubled the rates for some boaters in Hawaii's public recreational harbors.

In addition to nearly doubling the per-foot-per-month rate for some boaters this new 13-234 rules package changed the rate metric from per-foot length-of-boat to per-foot length-of-slip. As a result,

many boat owners with vessels moored in slips larger than their boat's length, ended up with an instantaneous doubling of their mooring fee rate. Some boat owners experienced even higher than a doubling of their previous mooring rate because this new rule deleted, out of nowhere, the grandfathered rate for certain harbor tenants. Because of this, many of these boat owners left the public harbor system completely, or ended up abandoning their boats ***leaving the State with the expense of salvage and disposal***. When we contacted Underwood about the impact of the new fee schedule, that it was driving small boat owners from the public harbor system and that maybe there needs to be a ramped increase over time, he ignored all correspondence that referenced this phenomenon.

**Now, in the middle of a pandemic, and only a year and a half after the 13-234 rate increases more than doubled some boater's rates, you want to pass legislation that will effectively double again the mooring rates for State of Hawaii tenant families holding Principal Habitation Permits?**

Just as we've seen in 2019, this doubling of monthly rents of the State's own tenants, its principal habitation permittees, will drive some of these families from their homes and into the street. ***There is no safety net in Hawaii for these people*** and they will end up among Hawaii's homeless. Let me remind you that Hawaii has, per-capita, the largest homeless population in the United States at an estimated cost to your taxpayer constituents of approximately \$3,000 per person per month.

**This legislation will guarantee still more homelessness and your constituents will have to pay for it at the rate of approximately \$3,000 per person per month.**

***The "Fair Market Value" ploy is so flawed that it's undergoing scrutiny in a Hawaii circuit court (1CCV-20-0000016); the use of this metric in its current flawed form sets a dangerous precedent in our lawmaking process.***

The so-called "fair market value" yardstick that is at the core of the justification for this legislation is highly suspect and currently awaiting judgment in circuit court.

Let me provide you with an example of just how suspect this metric is. Electrical usage per vessel on the floating piers at the AWSBH is not metered. There is no way to know how much electricity any given vessel is using. For more than a decade, DoBOR had been charging these tenants a flat rate of anywhere from \$5 to \$12 per vessel for electricity. Many of the boats were not even using \$5 a month in electricity, while other boat owners were using much more than \$12, especially larger vessels with larger families living on board. As part of the changes to 13-234, the flat rate fee for electrical usage on the floating piers went from \$5 to \$40 per month, and from \$12 to \$100 per month for principal habitation permittees -- a nearly 900% increase, instantaneously.

Underwood told us in one of our correspondences that the new flat rate was based on a "fair market value" study, presumably part of the CBRE appraisal process. When we asked Underwood how he came up with this "fair market value" assessment, he said that he'd collected the electrical bills of "some vessels" in the harbor and averaged them out and came up with "fair market value". When we asked

which vessels, how big were they, number of people staying on board, type of appliances on board, etc., specific data used in the survey, he said he "couldn't remember". When we asked to see the bills that he'd used to make the assessment, he said he didn't have them anymore, that he'd "shredded them" and they weren't available. Mr. Underwood had just told us that he fabricated his "fair market value" rationale.

**Mr. Underwood had just told us that he fabricated his "fair market value" rationale.**

It is virtually impossible for a regular, occasional-use tenant in the AWSBH to use \$40 per month in electricity. We asked Ed Underwood how his DoBOR was dealing with the obvious windfall in overpayments by harbor tenants. Underwood ignored all correspondence that referenced this phenomenon.

**Underwood ignored all correspondence that referenced this phenomenon.**

The 900% instantaneous flat-rate electrical fee increase left liveaboard permittees stunned, as many of them do not have appliances on board their boat that would be capable of generating that much usage. It is virtually impossible for a person living on a 26' sailboat, basically the interior space of a small walk-in closet, to use the same amount of electricity as a family of four living on a 50' trawler. But they're all paying the same rate, with an obvious wink-nod to wealthy boat owners. So we again asked Mr. Underwood for an explanation about windfall overpayments to the state and again received no answer to our query.

**Underwood ignored all correspondence that referenced this phenomenon.**

***SB795 is a toxic piece of legislation, set to be passed in the middle of a pandemic, based on an entirely false premise (the contrived "fair market value" metric) that will result in creating still more homelessness in our state with its highest homelessness rate in the nation, while creating still more stress, unnecessarily, for principal habitation families already struggling with their finances as a result of the pandemic's impact on the economy.***

**SB-795-HD-1**

Submitted on: 3/30/2021 1:24:59 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
ROBERT DUERR	Wailoa River and Reeds Bay Boating and Users Association Inc	Oppose	No

Comments:

**DEFER SB795. Needs More Discussion. Testimony from The Wailoa River and Reed’s Bay Boating and Users Association Inc. STRONGLY OPPOSES SB795. Hawaii boaters and fishers use harbors and ramps as a Hawaii Constitutional right to access the sea. Boaters and fishers are concerned about Division of Boating and Ocean Recreation’s ongoing strategic effort to privatize small boat harbors without oversight, transparency or accountability. Boaters have serious concerns about Division of Boating and Ocean Racreation. (DBOR). There are allegations of financial mismanagement and DBOR’s stated strategic plan to exit their BOATING mandate.**

**DBOR’s Alleged Scuttle Boating Program “Ploy.”** In the House WAL Committee Chair Rep Tarnas brought up boater allegations of a DBOR “ploy” to make boating look bad financially. It’s not against the law to intentionally scuttle a boat. You need permits and can do it to make an artificial reef for instance.

However is it illegal to take a sea worthy vessel (DBOR) and intentionally drive it up on the rocks (Manipulating the Special Boating Fund to show losses)? Then you (DBOR) turn around and say it’s gonna take a lot of money to salvage the boat (the boating program). And we don’t have the money (Underwood repeats over and over it’s \$300 million or maybe it’s \$500 million shortfall? But where are the DBOR Capital Expense plans?). You then take the scuttled boat (Div Boating) and sell it for salvage (public private partnership.) The “ploy” buyer then remarkably finds that the scuttled boat does have value. Is the Scuttle boating program “ploy” allegations true?

When before a House Finance Committee why aren’t there projections, shortfall projection sheets, Capital Improvement Plans and accounting for projected fee increases, or accounting for the Special Boating Fund.

**DBOR’s Fiduciary Responsibility Special Boating Fund.** In the House WAL Committee Chair Rep Tarnas asked DBOR administrator Underwood were would boating fee increase money go? Underwood clearly stated to Tarnas’ question that

DBOR is required by law to spend money on boating. If Underwood spent boating money not on boating it is illegal. Underwood and DLNR Chair Case both think they are running a boating program. They in fact are fiduciaries for the Special Boating Fund which is the money in trust to pay for the Boating Program.

Do boaters know of instances where DBOR has spent money not on boating and thus illegally? One instance is paying the \$1 million dollar water bill with \$400k going to a homeless camp at the Waianae Small Boat Harbor. Boaters have nothing against homeless needing water. The water can't be paid in a ploy to scuttle boating.

Where is the accounting for the Special Boating Fund?

**DBOR's Fair Market Value. SB795** wants to "Require the division of boating and ocean recreation to set its small boat harbor mooring fees at fair market value, as determined by a state—licensed appraiser; and Allow the division of boating and ocean recreation flexibility in charging commercial ocean operation fees."

DOBOR never a fan of transparency with the public will now not have to go through the Chapter 91 Regulation Public Hearing Process.

Increasingly DBOR has been operating as a leasal agent without public oversight or accountability. To raise boating fees they had appraisals done in 2011 by Colliers International and again by CBRE for the 2019 rate increases. Why do they want "fair market value" now?

During the Public hearing process for the 2019 fee increase DBOR public meeting were under a public question gag order. At the BLNR meeting approving the 2019 boaters were denied the ability to ask questions or have due process with Contested Case hearing. The BLNR reason for non-disclosure is that DLNR rate increase regulations do not have to have questions with answers.

In 2019 Boaters statewide were denied at DBOR Fee Increase public hearings their concerns about numerous DBOR errors and omissions. One blatant CBRE error was that the Ala Wai small boat harbor had a fuel dock.

The much needed boater fuel dock and haul-out had been demolished a decade earlier by DBOR. DBOR then got involved with a leasing embarrassment with the failed Honey Bee USA wedding chapel fiasco. Honey Bee USA went bankrupt in 2016 and still owes the state \$500,000.

The Land Division leases land and property and has oversight guidelines for appraiser selection and certification. There is also due process and arbitration to work out differences. DBOR has neither guidelines nor due process.

**DBOR gets to pick its own appraiser.** DBOR has a habit of doing no-bid contract approval. The pick who they want for reasons that they only know. This will be the same with SB795's appraiser approval process. This is an issue.

**DBOR confused with CAPEX.** "The legislature further finds that public health and safety are at risk if the small boat harbor program cannot increase revenues."

The State Boating Program is funded by a self sustainable Special Boating Fund. Boaters are deeply concerned and worried about the accounting of boaters funds within the Special Boating Fund to support small boat harbors.

SB795 mimics the false DBOR mantra "a \$300,000,000 backlog of deferred maintenance projects. Adjusted for inflation, the deferred maintenance balance is equivalent to approximately \$570,000,000 in 2021. The current deferred maintenance balance of the state small boat harbor program is approximately \$310,000,000."

DBOR is confused when it mistakes "deferred maintenance" for Capital Expense (CAPEX) improvement. Capital improvement of small boat harbors is funded by legislative actions or revenue bonds. Hawaii's small boat harbors have waiting lists as long as 15 years. The revenue stream is monthly and secure. Boaters and fishers relies on harbors and ramps to gain their Hawaii constitutional rights to access the sea.

DBOR's stated reason in their strategic privatization plan "Modernizing Ocean Recreation Management in Hawaii Strategic Action Plan- 2019," is for missing out on "windfall profits." DBOR had two mandates to provide for boating and promote fishing. In an effort for public private partnership model they have eliminated fishing in the 2019 rules package. DBOR states it also wants to exit boating.

It's been since 1992 DBOR keeps telling us about the CAPEX shortfall. Why haven't they done anything?

**SB 795 needs more discussion.** DBOR, DLNR, BLNR have not been forth coming with information for boaters to understand their boating program or their Special Boating Fund. Hold, Defer or extend the time for more discussion.

Boaters and fishers have no recourse but to plead our case to you the Hawaii legislature. In hopes that you will address our concerns and issues.

Wailoa River and Reeds Bay Boating and Users Association  
Inc. [savehawaiiwaters@gmail.com](mailto:savehawaiiwaters@gmail.com)





version of HRS 200-10(c)(1) requires that mooring fees be set forth in appraisal categories “A” and “B.” However, HAR 13-234-3 (2019) does not contain a schedule “A” or “B”. In other words, DOBOR has already departed from the mooring fee structure provided for in Act 197, SLH 2011, *without* prior authorization from the Hawaii State Legislature. It also obtained a second appraisal that it had no authority to obtain, and imposed a huge 26%-96% mooring fee increases at all Hawaii small boat harbors in 2019, completely ignoring the language of HRS 200-10(c)(1) which allows only for increases based upon increases in the “cost-of-living index”. See HRS 200-10(c)(1).

DOBOR is now seeking to cover the tracks of its *ultra vires* rulemaking via SB795, legislation that would delete the requirement of a schedule “A” and schedule “B”, and (more importantly) also delete “cost-of-living index” language from HRS 200-10(c)(1).

With respect to principal habitation fees governed by HRS 200-10(c)(4), DOBOR has also violated that section of the statute, and now seeks to delete the language it violated to escape accountability. In 2019, and again in 2020, DOBOR increased the principal habitation fee by 5%. However, HRS 200-10(c)(4) allows only for principal habitation fee-increases based on the annual increase in the “cost-of-living index”, or 5%, whichever is *less*. The Cost-of-Living index increase in the relevant years preceding 2019 and 2020 was 1.9%, and 1.6%, respectively. DOBOR knew that the 5% increases exceeded the relevant cost-of-living index, but went ahead and blatantly violated HRS 200-10(c)(4) by imposing 5% increases anyway. See Exhibit A (emails between Hawaii State Economist Mary E. Blewitt and Ed Underwood providing 1.9% and 1.6% cost-of-living index data which Underwood then ignored).

SB795 would not only delete the “cost-of-living index” language from HRS 200-10(c)(4), it would increase the principal habitation fee to equal double the mooring rate. Based on my calculations of my own bill, this would amount to a 150% increase in what I pay each month for legal status as a liveaboard, and a 42% increase in my bill overall (just two years after a 42% increase to the base mooring rate imposed in 2019).

The justification offered by DOBOR for increasing rates for liveaboards is that they are somehow a drain on DOBOR’s resources and the cause of all problems affecting the Ala Wai. This, of course, is false. DOBOR is trying to get rid of liveaboards in order to hand over the harbors *carte blanche* to a private developer, free of landlord/tenant protections or constitutionally-protected rights. *Brown v. Thompson*, 91 Hawai’i 1, 11, 979 P.2d 586, 596 (1999). Tellingly, HRS § 200-9(3)(b) allows for up to 129 liveaboards at the Ala Wai. However, there are currently *less than* 70 liveaboard permits outstanding, and DOBOR has offered no new liveaboard permits since before 2019, facts which DOBOR has admitted:

**Request for Admission No. 8:** Admit that current law allows 129 principal habitation permittees at AWSBH.

Admit:   x  

Deny:       

**Request for Admission No. 9:** Admit that there are currently less than 70 principal habitation permittees at AWSBH.

Admit:   x  

Deny:       

**Request for Admission No. 10:** Admit that Defendants have offered no new principal habitation permits at AWSBH since before the year 2019.

Admit:   x  

Deny:       

This begs the question, “Why is DOBOR so intent on inflicting pain on this small group of liveaboards during a pandemic and economic crisis?” The answer is obvious—DOBOR is seeking to get rid of them. If revenue were actually the issue, DOBOR would offer out liveaboard permits up to the 129 allowed by law. Revenue is not the issue, or the intent, however, and trying to squeeze a few extra hundred bucks each month out of the “less than 70” people who spent years on the waitlist to become liveaboards and who get nothing for their liveaboard fee other than legal status is not going to cure DOBOR’s management problems.

I respectfully request that this Committee table this Bill until at least such time as the members of the boating and ocean recreation community can come before you in-person and speak, and not allow these drastic changes to be made via “Zoom” during a pandemic when most people are simply unable to focus on what is happening here because of basic concerns about how to survive.

Please call me at the number below if you wish to discuss any of these issues further or if you would like to see any of the documents supporting what I’ve said here.

Thank you,

*/s/ Erik Rask*

(808) 286-1577

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**From:** Blewitt, Mary E <mary.e.blewitt@hawaii.gov>  
**Sent:** Tuesday, July 7, 2020 3:11:29 PM  
**To:** Underwood, Ed R <ed.r.underwood@hawaii.gov>  
**Subject:** FW: Recap: COLA vs CPI...resend but should we update?

Aloha Ed,

Got your request and decided to reply with a resend of our earlier e-correspondence so you may retrace your steps and then decide if an update is a good idea.

Our Quarterly Stat Report has 2019 data for Honolulu/Hawaii so I attached the table that appeared in the [QSER 2020Q2 report](#). The 2017 to 2018 (in previous email) was 1.9 percent & the 2018 to 2019 is 1.6 percent.

I could get the 2019 version of the U.S. snippet I pasted below but I think the Honolulu CPI might be more defensible as 'Recreation' includes so many unrelated components.

Good luck...with everything & everyone!

Best wishes,  
Mary

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**From:** Blewitt, Mary E  
**Sent:** Wednesday, October 09, 2019 12:36 PM  
**To:** Underwood, Ed R <ed.r.underwood@hawaii.gov>  
**Subject:** RE: Recap: COLA vs CPI

Aloha Ed,

The CPI-U (Urban Consumers) for 'Honolulu MSA' "All Items" for 2017 to 2018 is 1.9 percent.

Note: Table B-14 (attached) from our [Quarterly Stat](#) report has both index numbers and percent changes annually & semi-annually for the U.S. All Items & the Honolulu All Items and selected components.

I did intend to get back to you on using 'Recreation' component (introduced in Dec. 1997) but when I looked at the methodology for that component of the CPI I found it included pets, magazines, TV's, etc. See Snippet pasted below. The numbers to the right show the share (of 100%) each item is in the U.S. CPI. They don't publish that much detail for ours. The U.S. shows that 'Recreation' counts for only 5.694% in the U.S. CPI & the purchase of a boat, much less maintenance, license, etc. isn't even broken out separately. It increased only about 29% from Dec. 1997 to 2018.

I have a call in to BLS to confirm the 'All Items' be a more universally applicable indicator.

See attached or the [U.S. Bureau of Labor Statistics website](#) for [How to Use the Consumer Price Index for Escalation](#). It mirrors what we've discussed and calculated but there are [alternatives](#). BLS also has an online discussion "[How the CPI measures price change of Owners' equivalent rent of primary residence \(OER\) and Rent of primary residence \(Rent\)](#)" (and attached) but that index is based on conventional housing units.

Recreation.....	5.694
Video and audio.....	1.817
Televisions.....	.098
Cable and satellite television service.....	1.509
Other video equipment.....	.026
Video discs and other media, including rental of video.....	.086
Audio equipment.....	.043
Recorded music and music subscriptions.....	.047
Unsampled video and audio.....	.008
Pets, pet products and services.....	1.022
Pets and pet products.....	.605
Pet services including veterinary.....	.417
Sporting goods.....	.505
Sports vehicles including bicycles.....	.294
Sports equipment.....	.204
Unsampled sporting goods.....	.007
Photography.....	.073
Photographic equipment and supplies.....	.033
Photographers and photo processing.....	.039
Unsampled photography.....	.002
Other recreational goods.....	.324
Toys.....	.252
Sewing machines, fabric and supplies.....	.025
Music instruments and accessories.....	.036
Unsampled recreation commodities.....	.011
Other recreation services.....	1.836
Club membership for shopping clubs, fraternal, or other organizations, or participant sports fees.....	.680
Admissions.....	.662
Fees for lessons or instructions.....	.219
Unsampled recreation services.....	.276
Recreational reading materials.....	.116
Newspapers and magazines.....	.071
Recreational books.....	.045
Unsampled recreational reading materials.....	.000

Best wishes,  
Mary

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**From:** Underwood, Ed R  
**Sent:** Wednesday, October 9, 2019 11:32 AM  
**To:** Blewitt, Mary E <[mary.e.blewitt@hawaii.gov](mailto:mary.e.blewitt@hawaii.gov)>  
**Subject:** RE: Recap: COLA vs CPI

Aloha Mary,

We appreciate all your help with the CPI calculations and I would like to ask if you could let me know what last years CPI amounted to.

Thanks,

Ed

Edward R. Underwood, Administrator  
4 Sand Island Access Road  
Honolulu, HI 96819  
(808)587-1966

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**From:** Underwood, Ed R  
**Sent:** Thursday, September 26, 2019 11:53 AM  
**To:** Blewitt, Mary E <[mary.e.blewitt@hawaii.gov](mailto:mary.e.blewitt@hawaii.gov)>  
**Subject:** RE: Recap: COLA vs CPI

Aloha Mary,

Thank you for the information and it was very helpful. During our discussion, we discussed how we would apply the CPI to the liveboard rates for our tenants in the Ala Wai small boat harbor and what the rate would be from 2000 to present. You calculated that the increase would be 57% so the fee would go from \$5.25 to \$8.25. I'm not sure how to make a consideration for recreation so any guidance you can give us is really appreciated, if applicable.

Thanks again,

Ed

Edward R. Underwood, Administrator  
4 Sand Island Access Road  
Honolulu, HI 96819  
(808)587-1966

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**From:** Blewitt, Mary E <[mary.e.blewitt@hawaii.gov](mailto:mary.e.blewitt@hawaii.gov)>  
**Sent:** Thursday, September 26, 2019 11:22 AM  
**To:** Underwood, Ed R <[ed.r.underwood@hawaii.gov](mailto:ed.r.underwood@hawaii.gov)>  
**Subject:** Recap: COLA vs CPI

Aloha Ed,

As I mentioned, the COLA question is a classic and while we no longer have an official, i.e. federal government agency, that conducts/compiles one, the [Consumer Price Index](#) (U.S. Bureau of Labor Statistics) has become proxy justifiable in many situations.

I just wanted to get you the link to the data ([State of Hawaii Data Book 2018, Section 14](#)) we discussed on the phone and I'll assemble alternatives, etc. later today & get them off to you. I did discuss briefly with Eugene Tian, head of the Research Division, and he agreed that the CPI was the likely choice but speculated that the 'Recreation' component might be considered.

I'll send that detail, and his contact information, too.

Best wishes,  
Mary

Mary E. Blewitt, Economist  
State of Hawaii Dept. of Business, Economic Development & Tourism,  
Research & Economic Analysis Division  
P.O. Box 2359  
Honolulu, Hawaii 96804  
Phone: (808) 586-2479; Fax: (808) 586-8449; email: [mary.e.blewitt@hawaii.gov](mailto:mary.e.blewitt@hawaii.gov)  
Website: <http://dbedt.hawaii.gov/economic/>

**SB-795-HD-1**

Submitted on: 3/30/2021 11:44:11 AM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Keenan Kahalioumi	Individual	Oppose	No

Comments:

**Strongly Oppose**

**SB-795-HD-1**

Submitted on: 3/30/2021 12:16:06 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
stuart saito	Individual	Support	No

Comments:

If it means the state can upkeep the harbors and ramps/washdown areas and not privatize the harbors then I support the measure



**SB-795-HD-1**

Submitted on: 3/30/2021 12:21:52 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marialinda F West	Individual	Oppose	No

Comments:

I oppose SB795 because the manner of calculating 'fair market value' does not have a transparent 'fair' assessment of the value of the slip nor harbors.

Secondly, it will limit an interest in boating and ocean activities as it will financially restrict boat ownership affordability.

DLNR should be more concerned in fixing the docks and getting occupants for the slips and as demand increases, there will be more than adequate revenue to improve and expand the harbors to make it safe and attractive for the Hawaii population. As it is, this is a smoke screen to price out the boaters and have the harbors fall into dereliction and have DLNR cry out for a private investor (one already doing the vulture dance) to come in to 'save' DLNR from its own dereliction of duty to the boating and ocean community.

**SB-795-HD-1**

Submitted on: 3/30/2021 12:39:57 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Randall Winston B. Albright, Esq.	Individual	Oppose	No

Comments:

**I opose this bill as it is taking a public asset and selling it off without our citizens input. Our children and grandchildren of Hawaii deserve to have the right to access our oceans as part of the right to traditional fishing and recreation native rights of Hawaiians. Under this bill Mooring fees would be set based on appraisal "AT FAIR MARKET VALUE." Allows DBOR to sell to highest bidder. Liveaboard fee would increase to DOUBLE the mooring fee. Commercial vessel owner would pay the same liveaboard fee as recreational vessel! DOBOR would charge whatever it wants for waitlist renewal. Non residents treated the same as Hawaii residents. No Chapter 91 Public Hearings. This is just another step in harbor and ramp privatization with no transparency or accountability.**

**SB-795-HD-1**

Submitted on: 3/30/2021 12:56:55 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Scott Allen	Individual	Oppose	No

Comments:

As a long time resident of Hawaii's public harbor system, I strongly oppose this bill on four basic premises:

1. The "far market value" established via CBRE appraisal reported values using hypothetical rather than actual conditions. According to CBRE, the mooring fees reported assume all deferred maintenance projects at the harbors have been completed, meaning the current rates are well above fair market value. At Keehi harbor alone, this deferred maintenance is over 18 million dollars.
2. Not enough information has been collected to understand the impact, both social and fiscal, of the previous mooring increase in 2019. Currently Keehi harbor has decreased occupancy by upwards of 20% with no new boats entering the harbor. It is not known how current revenues compare to what was initially projected.
3. No concessions have been made for low and fixed income residents who cannot afford sudden and drastic increases in their housing expenses.

I urge you to defer this bill until appraisals are set using actual harbor conditions, more data is publicly available about change in harbor occupancies/revenues, and a strategy is put in place to prevent pricing low and fixed income residents out of their home during a pandemic.

**SB-795-HD-1**

Submitted on: 3/30/2021 1:05:46 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Thomas Celtano	Individual	Oppose	No

Comments:

I oppose this legislation for the reasons that I will orally state to this committee.

**I strongly oppose SB 795.** I have owned my own sailboat in Hawaii for 25 years. I sail at least two times a week and I love to ‘share sailing’. I often bring people sailing who are ‘disadvantaged’ and have low income; you are welcome to meet with me and view the ship’s logbooks. **The legislature needs to take more control and supervision of the State Harbors in Hawaii,** before we loose these important recreational lands, and submerged lands.

Ed Underwood is covering up the fiscal and engineering incompetence of DOBOR by raising harbor fees AGAIN. He is pricing out high middle-income boating. The November 2019 price increase was not the 4-5% cost of living increase recommended by the legislature but a HUGE 80% increase. In November 2019, personal mooring fee (Ala Wai, slip 765) went from **\$253.80 a month to \$520.00 a month!** DOBOR not only increased the per foot charge from \$7.00 a foot to \$13.00 a foot but also started charging for the ‘air space’ length of the dock. This effectively increased my month fee by more than 100%. The legislature needs to investigate DOBOR harbor mismanagement, rather than allow this vague, ‘fair market value’ wording. Please stop DOBOR from this ‘power move’ that will further restrict recreational boating for Hawaii residents by pricing us out.

**SB-795-HD-1**

Submitted on: 3/30/2021 1:13:10 PM

Testimony for FIN on 3/31/2021 1:30:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Susan Oliver	Individual	Oppose	No

Comments:

**Dear Chair:**

**I have been enjoying the ocean and boat harbors in the State of Hawaii for nearly 20 years. We live in a beautiful, isolated part of the world together. I respect our ocean and highly value this as part of my life and culture on a daily basis. What DLNR/DOBOR has proposed will limit this for me and my ohana. In my opinion the State of Hawaii has the following lined up for all of our residents. This is wrong and must be deferred . I strongly oppose this**

**SB 795. An official audit must be conducted. It is obviou there is devious activity and secretive dealings behind our backs, no transparency. We need to have "sunshine" here to chase out the centipedes and cockroaches in our government. You get the picture, right? The following is the goal of this proposed SB. Read on:**

**--Mooring fees would be set based on appraisal "AT FAIR MARKET VALUE." Allows DBOR to sell to highest bidder.**

**--Liveaboard fee would increase to DOUBLE the mooring fee.**

**--Commercial vessel owner would pay the same liveaboard fee as recreational vessel!**

**--DOBOR would charge whatever it wants for waitlist renewal.**

**- Non residents treated the same as Hawaii residents.**

**- No Chapter 91 Public Hearings.**

**- Another step in harbor and ramp privatization with no transparency or accountability.**

**Please slow this down, expose the darkness and railroading of this bill. Stop the insanity. Make our oceans and harbors welcoming and accessible to all. Not just the rich and wealthy tourists, vacationers and part time residents. Thank you. Please respect the boaters defer this bill. Aloha, Susan Oliver**



TO: Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair  
Members of the House Committee on Water & Land

**LATE**

FROM: James Callahan  
1651 Ala Moana Blvd,  
Honolulu, Hawai'i 96815

Date: March 31, 2021

Time: 1:30 PM

Place: House conference room 308 & Videoconference

RE: SENATE BILL 795 SD2 HD1, RELATING TO STATE SMALL BOAT HARBOR FEES

Dear House Members of the Finance Committee,

The current language proposed in Senate Bill 795 SD2 would increase principal habitation permit fees to a level equal to commercial operators.

A local resident with a current principal habitation permit and a 40 foot vessel moorage fee will see at least an immediate 50% increase in their monthly payment to DOBOR.

There is no evidence that principal habitation permittees pose an additional cost burden to the facility compared to regular mooring fee permit holders. It is clear commercial operators have a higher cost burden on a harbor facility which is why their mooring rate is double that of a recreational boater.

Recreational boaters with a liveaboard permit do not receive any additional services or amenities for their additional fee. All facilities and amenities at the harbor are available to all mooring tenets at all hours of the day, including commercial permit operators.

There is no evidence that principal habitation permittees pose an additional cost burden to the facility compared to regular mooring fee permit holders.

This Bill would put Commercial and Liveaboard permit holders under equal fee structures but separate benefits.

## Commercial Boater:

- Bring hundreds of passengers daily to the harbor loading and unloading multiple trips 7 days a week.
- Have the option of selling/transferring their commercial mooring permit with their business



- Have the possibility of passing their fee increases onto their customers.

### **Example 1: \$1,040.00 Current monthly cost to a Commercial Operator**

A six passenger 40 ft charter sailboat mooring fee:

$\$13 \text{ per foot} \times 40\text{ft} = \$520 \times (\text{double the mooring fee}) = \$1040 \text{ a month}$

The going rate for a 3 hour charter on a 6 PAX vessel averages \$400 - \$500. (I have worked in the charter industry for 3 years).

**A commercial operator is able to cover their total monthly mooring costs in one afternoon.**

## Liveaboard Boater

- Are the eyes and ears for the harbor master helping to reduce crime and protect neighboring boats
- Do not have the privilege to transfer/sell their liveaboard slip when they sell the vessel
- Have a fixed income

### **Example 2: \$751.60 Current monthly cost to a 40ft Liveaboard**

A 40ft liveaboard sailboat mooring fee:

$\$13 \text{ per foot} \times 40 = \$520 \text{ mooring fee}$

$\$5.25 \text{ per foot} \times 40 = \$210.00 \text{ Liveaboard permit fee (based on cost of living index)}$

Monthly Total = \$730.60

## Solution:

- Bearing in mind the current lawsuit that identifies DOBAR's multi-year failure to fulfill their legal obligation of raising liveaboard rates annually at the cost of living index.
- Bearing in mind that since 2019 DOBAR has issued less than 70 of the possible 129 liveaboard permits at the Ala Wai Small Boat Harbor, despite a multi-year waitlist.

**Make the liveaboard rate 50% of the mooring fee.**

### Example 3: 50% of mooring fee for 40ft Liveaboard

$\$13 \text{ per foot} \times 40 = \$520 \text{ mooring fee}$

$6.50 \text{ per foot (or 50\%)} \times 40 = \$260 \text{ Liveaboard fee}$

Monthly Total = \$780.00

Respectfully,

James Callahan  
Principal Habitation Permit Holder.

**SB-795-HD-1**

Submitted on: 3/31/2021 7:32:11 AM

Testimony for FIN on 3/31/2021 1:30:00 PM



Submitted By	Organization	Testifier Position	Present at Hearing
Rob Johnson	Individual	Oppose	No

Comments:

I oppose SB 795. I strongly urge committee members vote to either hold this bill or change Section 4, the effective date, until June 1, 2024 . During the time of economic recovery from the pandemic, management and financial audits by the Legislative Auditor could be used to develop a sustainable boating program action plan.

Let me introduce myself, I am Rob Johnson, a trailer boat owner who has a degree in urban planning, I have extensive commercial construction background, and am presently the general manager of the Ilikai Hotel a 1000 unit building with commercial and condo owners. I have participated in many meetings regarding the harbor including the Donovan Dela Cruz's DTL 2018 conceptual planning session.

1. the pandemic, commercial operators paid a reduced mooring fee, recreational boaters were not. Now a traditional 5-6 year waitlist list for slips collapsed losing *that* annual renewal money. Slip vacancies have soared throughout the State. Ala Wai alone is running between 30-40% vacancy rate, particularly in the under 35ft category. Many boats have been impounded as people fell behind in rent. Another targeted group is liveaboards. Instead of liveaboards paying for the cost of services, it SB795 is based "in leu of" commercial rates.

DOBOR's Meghan Statts told WAL committee's Senator Misacula? that the AG's assigned lawyers have told DOBOR many times that they cannot charge higher non-resident fees. Yet another division, State Parks has higher fees for non-residents permits. Federal Court cases against DOBOR and a US Supreme Court decision affirmed the legality of charging higher non-resident fees.

Unlike the DLNR's Division of State Parks, the DOBOR does not use master plans but conceptual ones. I asked Mr. Underwood why they simply didn't create a normal master plan for harbor, starting with Ala Wai, his reply..... "Because we don't want to."

Over the past 10 years DOBOR has repeatedly increased it's fees and more and more average

residents have become unable to afford recreational boating in Hawaii, a *constitutionally protected right*.

SB795 will accelerate the demise of recreational boating in Hawaii.