

EXECUTIVE CHAMBERS
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA

House Committee on Tourism

Thursday, February 2, 2023

10:00 a.m.

State Capitol, Conference Room 423 and Videoconference

In Support of the Intent

H.B. No. 1237, Relating to a Green User Fee Program

Chair Quinlan, Vice Chair Hussey-Burdick, and members of the House Committee on Tourism:

The Office of the Governor supports the intent of H.B. No. 1237, Relating to a Green User Fee Program. However, our Office prefers the language in H.B. No. 1051, Relating to Natural Resources Management, for the reasons below and respectfully requests your consideration of that measure.

The impacts on Hawaii's natural resources, consequences of both residents and visitors, is an overarching concern in our State and one of the priorities of this Administration. Both H.B. No. 1237 and H.B. No. 1051 recognize that human-induced impacts on our environment, including increased pollution, stress on our natural resources, soil degradation, and natural habitat loss, are cause for great concern and immediate action. For all who live here, Hawaii's natural resources are a vital part of our past and present, but also our future.

It is well recognized that Hawaii residents already contribute to the protection and management of the State's natural resources through taxes, environmental care, subsistence and cultural practices, and the values and practices embodied in the Hawaii State Constitution. However, the State has not yet dedicated enough financial resources to address impacts by visitors. H.B. No. 1051, which was introduced during this regular session, establishes the visitor green fee program, which includes a license and assessment of a visitor green fee on visitors for the usage of Hawaii's state-owned parks, beaches, forests, trails, or other state-owned recreational natural areas. H.B. No. 1051 provides a means of sustained funding for the protection, restoration, regeneration, enhancement, and care of Hawaii's natural and cultural recreational resources.

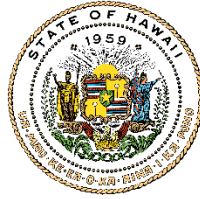
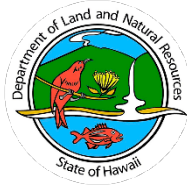
Testimony of Office of the Governor
H.B. No. 1237
February 2, 2023
Page 2

While H.B. No. 1237 and other measures before your Committee on Tourism may be of similar intent to H.B. No. 1051, we respectfully request your Committee's consideration of H.B. No. 1051, which has been vetted by the Department of the Attorney General and Department of Land and Natural Resources. H.B. No. 1051 is a commitment and an undertaking to ensure responsible and caring stewardship of Hawaii's natural resources so that residents and visitors to our State can reap and enjoy the natural resources that make Hawaii so valued.

Thank you very much for the opportunity to provide testimony on this measure.

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

DAWN N.S. CHANG
CHAIRPERSON
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COMMISSION ON WATER RESOURCE
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M. KALEO MANUEL
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BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
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HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
WATER & LAND

Tuesday, February 14, 2023
8:30 AM

State Capitol, Conference Room 430, Via Videoconference

In consideration of
HOUSE BILL 1237 HOUSE DRAFT 1
RELATING TO GREEN USER FEE PROGRAM

House Bill 1237 House Draft 1 proposes to: 1) require the Department of Land and Natural Resources (Department) to establish a green user fee program to collect user fees for certain state parks; 2) require the Department to develop a mobile application for the green user fee program; 3) exempt certain individuals from the green user fee program and 4) appropriate funds. **The Department appreciates the intent of this measure and all of the measures that seek to create a green fee program, and respectfully requests that collective efforts may be focused into House Bill 1162 / Senate Bill 304 which will have a broader positive impact on all state lands and biocultural resources.**

The Department supports the creation of a green fee program and fund, and stresses that funds from this program should be utilized to mālama natural and cultural resources throughout the State. The Department's Division of State Parks has already executed a parking and entry fee increase for out of state visitors during the pandemic in 2020. This action, coupled with the return of the visitor industry, contributed to a substantial increase in special fund revenue to address decades of deferred repair and maintenance at State Parks across the State. Though visitors may be concentrated in certain areas such as state parks, the impact of tourism is felt beyond those boundaries. Establishing a program to only address impacts at state parks fails to address the impacts tourism has on our reefs, trails, beaches, forest reserves, natural area reserves, historic sites and other important natural and cultural areas.

The Department thanks all introducers of green fee measures, and respectfully requests the Legislature proceed with House Bill 1162/Senate Bills 304 which addresses the need to improve stewardship on all lands throughout the state, and work broadly to reverse human impacts on natural and cultural resources.

There are other proposed measures to create a visitor green fee program, and the Department welcomes the opportunity to work with the Legislature to incorporate helpful language from all measures. With this approach, the green fee program will be a collaborative effort that will positive benefit all current and future generations.

Mahalo for the opportunity to testify on this measure.



HAWAII
1164 Bishop St., Ste. 1512
Honolulu, HI 96813
tpl.org

TRUST FOR PUBLIC LAND'S TESTIMONY IN SUPPORT OF HB 1237 HD 1
House Committee on Water & Land, Rm. 430
Tuesday, February 14, 2023, 9:30 a.m.

Aloha Chair Ichiyama, Vice-Chair Poepoe, and Committee Members –

Trust for Public Land (TPL) supports HB 1237 HD 1 which would establish an annual visitor green fee administered through a web application, and allow the counties to participate. The revenues of the fee would be used to care for our precious natural and cultural resources.

Although Hawai'i's natural and host culture attracts over 10 million visitors a year in non-pandemic times, the State's management and protection of cultural and natural resources is sorely underfunded -- receiving less than 1% of the state's annual budget. DLNR struggles to manage a tremendous kuleana – its Natural Area Reserves, Forest Reserves, parks, trails, historic sites and monuments, and unencumbered state land. Hawai'i suffers from a significant conservation funding gap [estimated at \\$360 million annually](#). Meanwhile – coral reefs are dying, trails are overcrowded, cultural sites are being damaged, parks are deteriorating, watersheds are threatened, and fish stocks are declining. Residents feel overwhelmed by the overuse of and damage to the special places they and their families once enjoyed, and to which many families have genealogical connections.

With an estimated 10 million tourists visiting our islands annually in non-pandemic times, a \$50 per person green fee could generate \$500 million in conservation revenue each year, creating local green jobs and protecting Hawai'i's irreplaceable natural and cultural resources, including the forested watersheds that generate the islands' only source of fresh drinking water and the reefs that protect more than \$830 million worth of coastal infrastructure each year, according to a [USGS report](#).

Last year, a 2022 survey conducted by FM3 (95% confidence level), found that Hawai'i voters overwhelmingly agree that tourists should pay their fair share to maintain and manage natural and cultural resources. Fully 88% of voters – nearly 9 out of 10 – agree with this assertion and nearly two-thirds (63%) "strongly agree." The survey also found two thirds of Hawai'i voters support a \$50 per person "green fee" for visitors who use state and county beaches, parks and trails to fund programs to protect and restore land, water, wildlife and cultural resources impacted by tourism.

We also suggest that a volunteer advisory Commission similar to the Legacy Land Conservation Commission advise the Board of Land and Natural Resources on grants and disbursements. Reviewing and conducting thorough due diligence on grant applications is a laborious process. An advisory Commission made up of different experts in natural and cultural resources could greatly assist the BLNR and staff in disbursing the funds, and provide transparency and community involvement in the decision-making process.

Mahalo for this opportunity to testify. I apologize that I will not be able to attend the hearing in person or virtually due to a scheduling conflict.

Lea Hong
Associate Vice-President
Hawai'i State Director
Edmund C. Olson Trust Fellow
Trust for Public Land

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February 10, 2023

Representative Linda Ichiyama, Chair
Representative Mahina Poepoe, Vice Chair
House Committee on Water and Land
Hawaii State Legislature

Comments on HB1237 HD1

Dear Chair Ichiyama, Vice Chair Poepoe and Members of the House Committee on Water and Land,

Thank you for the opportunity to comment on HB1237 HD1.

Overall, the Kohala Coast Resort Association is in support of the state collecting user fees from visitors to our state parks beaches, trails, natural areas and other facilities, **but only if those fees are directly reinvested in those specific state natural areas for maintenance, upkeep and preservation.**

Fees of \$10 per car and \$5 per person have been collected at a number of Hawaii Island state parks for *years*. But unfortunately, those parks have not benefited directly from those investments.

For example, Hapuna Beach State Park has been plagued by issues with its water lines. There has been no potable water for residents or visitors, nor working restroom facilities, since August 2022. The “temporary” luas that have been put in place bake in the sun, and are an abysmal detraction from what should be one of Hawaii Island’s crown jewels. Yet all the while the State Department of Land and Natural Resources has continued to collect fees from visitors.

Before the state begins collecting any new visitor fees, the Department of Natural Resources should be required to provide a full accounting of revenues and expenditures from **previously established visitor fee programs**. A dashboard on how all of the fees are being used should also be readily available and accessible for the public, so they can be apprised of the status of key projects, as it is often difficult to get firm timelines from state agencies.

The Kohala Coast Resort Association’s members employ 5,000 people, supporting 20,000 residents, at their hotels, timeshares, restaurants, retail shops, golf courses and spas along Hawaii Island’s Kohala Coast. Additionally, in 2022, KCRA members paid \$40 million in state and county TAT, and \$40 million in state and county GET. **We would also request that the Legislature appropriately invest those funds collected from visitors, to address visitor impacts, versus placing nearly 100% of those collections in the state’s general fund.**

Thank you for the opportunity to provide comments on HB1237 HD1.

Sincerely,

A handwritten signature in black ink that reads "Stephanie P. Donoho". The signature is written in a cursive, flowing style.

Stephanie Donoho, Administrative Director



HB 1237, HD1, RELATING TO A GREEN USER FEE PROGRAM

FEBRUARY 14, 2023 · HOUSE WATER AND LAND
COMMITTEE · CHAIR REP. LINDA ICHIYAMA

POSITION: Support.

RATIONALE: Imua Alliance supports HB 1237, HD1, relating to a green user fee program, which requires the Hawai'i Department of Land and Natural Resources to establish a green user fee program to collect user fees for certain parks and requires the Hawai'i Department of Land and Natural Resources to develop a mobile application for the green user fee program, while exempting certain individuals from the green user fee program.

According to a report produced by the Hawai'i Climate Change Mitigation and Adaptation Commission, global sea levels could rise more than three feet by 2100, with more recent projections showing this occurring as early as 2060. In turn, over the next 30 to 70 years, approximately 6,500 structures and 19,800 people statewide will be exposed to chronic flooding.

Additionally, an estimated \$19 billion in economic loss would result from chronic flooding of land and structures located in exposure areas. Finally, approximately 38 miles of coastal roads and 550 cultural sites would be chronically flooded, on top of the 13 miles of beaches that have already been lost on Kaua'i, O'ahu, and Maui to erosion fronting shoreline armoring, like seawalls.

Furthermore, according to research conducted by Michael B. Gerrard from Columbia Law School, modern-day slavery tends to increase after natural disasters or conflicts where large numbers of people are displaced from their homes. In the decades to come, says Gerrard, climate change

will very likely lead to a significant increase in the number of people who are displaced and, thus vulnerable, to human trafficking. While the Paris Climate Agreement of 2015 established objectives to limit global temperature increases and several international agreements are aimed at combating modern-day slavery, it is highly uncertain whether they will be adequate to cope with the scale of the problem that is likely to occur as a result of climate change.

As we work to reduce carbon emissions and stave off the worst consequences of climate change, we must begin preparing for the adverse impact of sea level rise on our shores. We are now quantifying the speed at which we must act. We cannot continue to develop the 25,800-acre statewide sea level rise exposure area—one-third of which is designated for urban use—without risking massive structural damage and, potentially, great loss of life.

Therefore, we should take steps to accelerate Hawai'i's efforts to address climate change and develop a clean economy, including by implementing "green fees" that ensure our state's visitors pay their fair share to sustain our 'āina. New Zealand, the Maldives, Cancun, and Venice, and numerous other countries have green fee programs for visitors, which vary from \$1 per night to a \$100 entrance fee for the purpose of environmental conservation. **Palau's per-tourist investment in its natural environment is \$92, New Zealand's is \$188, and the Galapagos Islands' is \$373. Hawai'i's is just \$9 per tourist,** according to a report from Conservation International's Green Passport initiative. We need to catch up. For the sake of our keiki, we cannot afford to wait to solidify strategies to preserve our island home for generations to come.

Kris Coffield · Executive Director, Imua Alliance · (808) 679-7454 · kris@imuaalliance.org

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Green User Fee Program

BILL NUMBER: HB 1237 HD 1

INTRODUCED BY: House Committee on Tourism

EXECUTIVE SUMMARY: Requires the department of land and natural resources to establish a green user fee program to collect user fees for certain state parks. Requires the department of land and natural resources to develop a mobile application for the green user fee program. Exempts certain individuals from the green user fee program. Appropriates funds.

SYNOPSIS: Adds a new section to chapter 184, HRS, tasking DLNR with establishing a program to collect user fees, including film permitting fees, for state parks identified by the department. User fees would be deposited into the state parks special fund (section 184-3.4, HRS). Counties can also apply to add county parks to the program; if accepted, DLNR would collect the user fee for the county park but remit it to the county.

Exempts from the user fee an individual who has (1) filed or paid state income taxes for the immediately previous tax period; or (2) established domicile in the State, as evidenced by documentation showing the individual's address, including any of the following: (A) A valid state driver's license; (B) A valid state civil identification card; (C) A valid school identification card; or (D) Any other official document issued to the individual by a government agency, financial institution, insurance company, or utility company in the State."

EFFECTIVE DATE: June 30, 3000.

STAFF COMMENTS: The Privileges and Immunities Clause of the U.S. Constitution requires that "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." Although it has been held that a state may treat out-of-state residents differently in some situations, such as in granting licenses for recreational hunting, *Baldwin v. Fish & Game Commission of Montana*, 436 U.S. 371 (1978), the Court indicated that the result may be different when the nonresident is not given access to any part of the State to which they may seek to travel. *Id.* at 388. This is because the Court has recognized that the Constitution protects the right of citizens of the United States to travel freely throughout the land.

"We are all citizens of the United States," the Court stated in *Crandall v. Nevada*, 75 U.S. 35 (1867), "and as members of the same community must have the right to pass and repass through every part of it without interruption, as freely as in our own states. And a tax imposed by a state for entering its territories or harbors is inconsistent with the rights which belong to citizens of other states as members of the Union and with the objects which that Union was intended to attain. Such a power in the states could produce nothing but discord and mutual irritation, and they very clearly do not possess it."

Other recent cases in the federal system have sustained the power of government to charge a user fee whose proceeds are dedicated to protect and preserve the natural attraction for which the user fee was charged (Hanauma Bay, for example). And the Hawaii Supreme Court in *State v. Medeiros*, 89 Haw. 361, 973 P.2d 736 (1999), held that the following test would be applied to distinguish between a user fee and a tax: “whether the charge (1) applies to the direct beneficiary of a particular service, (2) is allocated directly to defraying the costs of providing the service, and (3) is reasonably proportionate to the benefit received.” 89 Haw. at 367, 973 P.2d at 742.

Applying this test, the proposed user fee program does not seem to cross the line into tax territory. The user fee is collected in a special fund, and is collected from visitors according to the natural attractions they visit. The uses to which the money in the fund do seem to be reasonably limited to the care and upkeep of natural attractions visited by tourists.

We also note some incongruities in the definition of “resident” offered in the bill. The bill calls a person a resident if that person filed a Hawaii tax return; nonresidents file Hawaii tax returns too. The bill also allows a person to be classified as a resident if they have a utility bill or similar document showing a Hawaii address; the Hawaii address could be that of a second or third home.

Digested: 2/11/2023



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Josh Green, M.D.
Governor

John De Fries
President and Chief Executive Officer

Statement of
JOHN DE FRIES
Hawai'i Tourism Authority
before the
COMMITTEE ON WATER & LAND

Tuesday, February 14, 2023
8:30 a.m.
State Capitol Conference Room 430 & Videoconference

In consideration of
HOUSE BILL NO. 1237, HD1 (HSCR119)
RELATING TO GREEN USER FEE PROGRAM

Aloha Chair Ichiyama, Vice Chair Poepoe, and Members of the Committee on Water & Land,

The Hawai'i Tourism Authority (HTA) appreciates the opportunity to offer comments in support of the intent of HB1237 HD1, to collect user fees to support the maintenance of our state parks.

The ethic of mālama – care and stewardship – is the core of our visitor education efforts. HTA's work is framed by four interacting strategic pillars: Natural Resources, Hawaiian Culture, Community, and Branding – the last of which is dependent upon the strength of the first three. Hawai'i's environment is a treasure, and it is our collective kuleana to protect it for the generations to come. Fulfilling that responsibility takes funding. We agree with the intent of this legislation as it is in alignment with our Strategic Plan priorities in the Natural Resources pillar, as well as action items in our community-generated Destination Management Action Plans.

We have consistently been supportive of site-specific user fees as our preferred model to facilitate visitor contributions to the care of our natural resources. As we maintain GoHawaii.com and the GoHawaii app as visitor interfaces, we stand ready to collaborate with the Department of Land and Natural Resources on this effort.

We also recommend additions to this bill. As one of the two official languages of the State of Hawai'i and the native language of this land, 'Ōlelo Hawai'i should be included in the list of languages to be available on the platform. Additionally, to support more international visitors, we recommend adding French, German and Spanish languages.

We support the intent of HB1237 HD1, we stand ready to assist in educating visitor industry stakeholders and visitors, and we defer to our colleagues at the Department of Land and Natural Resources on matters related to the implementation of this measure. Mahalo for the opportunity to provide these comments.



February 14, 2023

Representative Linda Ichiyama
Chair, Committee on Water and Land

Representative Mahina Poepoe
Vice-Chair, Committee on Water and Land

RE: Testimony in Support of HB 1237, HD1, Relating to Green User Fees

Aloha Chair Ichiyama, Vice Chair Poepoe and committee members,

On behalf of Resources Legacy Fund (RLF), we are writing in support HB 1237, HD1, which establishes a green user fee program and requires the Department of Land and Natural Resources to develop a mobile application for the green user fee program.

Hawai'i residents overwhelmingly prioritize our collective responsibility to invest in Hawai'i's natural and cultural resources. The state has created programs, but to date failed to invest sufficient resources in collective priorities, such as protecting and restoring reefs, beaches, and forests, removing invasive species, and upgrading cesspools. Until now, the state has not identified adequate funding to protect against the real and increasing impacts of climate change, including increasing flooding, coastal erosion, and sea-level rise. A green user fee offers a net-positive investment solution not only for the environment, but for the economy, as well.

We see an imperative to generate sustained and dedicated funding -- at least \$300 million annually -- sufficient to meet the needs of our state's natural and cultural resources. Most importantly, we support funding the right mix of natural and cultural resource projects, community stewardship, and effective implementation of priority programs.

This bill will enable the State of Hawai'i to meet these ongoing and increasing needs and provide a durable funding source that will enable the state to invest hundreds of millions of dollars to protect and restore our natural resources for the enjoyment of present and future generations, while creating jobs for Hawai'i residents.

HB 1237, HD1 provides a transformative opportunity to protect Hawai'i's magnificent natural resources for present and future generations. We respectfully urge you to approve this important legislation.

Thank you for the opportunity to provide testimony in support of HB 1237, HD1.

Sincerely,
Jocelyn Garovoy Herbert
Senior Program Officer, Resources Legacy Fund



Maui Hotel & Lodging
ASSOCIATION

Testimony of
Lisa H. Paulson
Executive Director
Maui Hotel & Lodging Association

House Committee on Water and Land
House Bill 1237, HD1: Relating to Green Fee User Program
February 14, 2023, 8:30 am
Conference Room 430

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry for Maui County. We represent over 180 property and allied business members and 22,000 employees. **MHLA would like to offer comments for House Bill 1237, HD1**, which requires the department of land and natural resources to establish a green user fee program to collect user fees for certain parks. Requires the department of land and natural resources to develop a mobile application for the green user fee program. Exempts certain individuals from the green user fee program. Appropriates funds.

Green fees typically are applied flatly to all visitors, while impact fees are applied for the use of an attraction or natural resource to offset the impact created by the visitor to that specific place. MHLA wants to ensure that any impact fee remains separate from any general governmental fund and that these funds must be used to protect, rehabilitate, and improve the resource at which it was collected. This will guarantee that our natural resources will retain their beauty and health.

MHLA is in favor of the mobile application for user fees to be collected and managed. We also recommend the inclusion of House Bill 1237 language in House Bill 953.

MHLA offers these comments for House Bill 1237, HD1.

Thank you for the opportunity to provide this testimony.



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

Testimony of
Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

House Committee on Water & Land
House Bill 1237, HD1
February 14, 2023

Chair Ichiyama, and members of the Committee, mahalo for the opportunity to provide testimony on behalf of the Hawai'i Lodging & Tourism Association, the state's oldest and largest private sector visitor industry organization.

The Hawai'i Lodging & Tourism Association—nearly 700 members strong, representing more than 50,000 hotel rooms and nearly 40,000 lodging workers—have been proponents for the establishment of impact fees at high-traffic sites that are especially impacted by visitors. Our position remains unchanged; we support impact fees that are collected at specific sites so long as the monies generated are used to maintain and improve the site at which they were collected.

We support the intent of House Bill 1237 and offer the following possible amendments for the Committee's consideration.

Though we appreciate that the fees collected would be deposited in the State's parks special fund, we feel strongly that any monies collected be used to support and maintain the site at which they were collected. This will ensure that any park user can be confident that their fee will support the site which they visited and enjoyed. Additionally, we support that the counties can request that a county park participate in the program, but we would prefer to see that the counties be required to use the collected funds in the manner of an impact fee—at the site which it was collected.

For these reasons, HLTA supports the intent of House Bill 1237, HD1.

Mahalo for the opportunity to offer this testimony.

HB-1237-HD-1

Submitted on: 2/9/2023 5:00:18 PM

Testimony for WAL on 2/14/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Douglas Perrine	Individual	Support	Written Testimony Only

Comments:

I support the creation of a green user fee. However I believe that the wording in HB1237 needs some clarification. HB1237 HD1 states "The sums appropriated shall be expended by the department 4 of land and natural resources for the purposes of this Act." However, it does not state what "the purposes of this Act" are. These purposes should be defined within the bill.

HB-1237-HD-1

Submitted on: 2/10/2023 7:40:37 PM

Testimony for WAL on 2/14/2023 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Oppose	Written Testimony Only

Comments:

I oppose thsi Bill.

HB-1237-HD-1

Submitted on: 2/13/2023 9:14:31 PM

Testimony for WAL on 2/14/2023 8:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

This is just to Rip of the People!!!!