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

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SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
FINANCE**

**Monday, February 28, 2022
12:30 PM**

State Capitol, Conference Room 308, Via Videoconference

**In consideration of
HOUSE BILL 2196, HOUSE DRAFT 1
RELATING TO STREAM MAINTENANCE**

House Bill 2169, House Draft 1, proposes to establish within the Department of Land and Natural Resources (Department) a two-year stream maintenance reimbursement pilot program to reimburse homeowners for the costs incurred by a homeowner for clearing debris in or around a stream within a yet to be determined distance of the homeowner's property. **The Department offers comments on this measure.**

Section 46-11.5, Hawaii Revised Statutes (HRS), states:

“Notwithstanding any law to the contrary, each county shall provide for the maintenance of channels, streambeds, streambanks, and drainageways, whether natural or artificial, including their exits to the ocean, in suitable condition to carry off storm waters; and for the removal from the channels, streambeds, streambanks, and drainageways and from the shores and beaches any debris which is likely to create an unsanitary condition or otherwise become a public nuisance; provided that to the extent any of the foregoing work is a private responsibility the responsibility may be enforced by the county in lieu of the work being done at county expense, and any private entity or person refusing to comply with any final order issued by the county shall be in violation of this chapter and be liable for a civil penalty not to exceed \$500 for each day the violation continues; provided further that it shall be the responsibility of the county to maintain all channels, streambeds, streambanks, and drainageways unless such channels, streambeds, streambanks, and drainageways are

privately owned or owned by the State, in which event such channels, streambeds, streambanks, and drainageways shall be maintained by their respective owners.”

The Department recognizes the importance of stream channel maintenance to ensure that channels are clear of vegetation and debris; however, the Department believes that such a pilot program would require a considerable commitment of staff resources to review, confirm, and approve applications for any expenses related to debris clearing of the stream channel. Without a clearly defined set of standards, regulatory measures, and oversight in place, such a reimbursement program could also be susceptible to fraudulent requests and disbursements. It is important to note that the Department performs stream maintenance and responds to reports of fallen trees and other obstructions of streams within the Department’s jurisdiction.

The Department suggests that such a proposal for a stream maintenance pilot reimbursement program be developed and implemented at the county level, where Section 46-11.5, HRS, squarely places the jurisdiction of stream channel maintenance upon the counties.

Maui County and the City and County of Honolulu use county requirements to enforce and complement Section 46-11.5, HRS. Maui County (Chapter 12.12, MCC, and Section 46-11.5, HRS) conducts stream cleaning operations by request, in response to a complaint, or on an ‘as needed’ basis. City and County of Honolulu (Section 41-26.3, ROH, and Section 46-11.5, HRS) currently requires landowners to maintain streams and remove silt, vegetation, debris, and other items that may interfere with the natural flow of the water. Stream channel mouths are cleaned at a minimum of once every five years (flood prevention related maintenance only). The City and County of Honolulu maintains that streambank cleanup is the responsibility of property owners. The County enforces clean-ups by giving 30-day notice, by cleaning the stream itself and billing the owner, and/or by contracting the cleanup and billing the owner.

Hawaii and Kauai counties also use Section 46-11.5, HRS, to implement stream maintenance responsibilities. Hawaii County conducts stream cleaning operations upon request or in response to a complaint. Kauai County cleans streams in response to complaints and as needed based on the results of inspections every two years.

Thank you for the opportunity to comment on this measure.

HB-2196-HD-1

Submitted on: 2/27/2022 11:41:11 AM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dean Uyeno	DLNR-CWRM	Comments	Yes

Comments:

I am available for questions to DLNR. Please allow me Zoom access.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

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EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 2196, H.D. 1

February 28, 2022
12:30 p.m.
Room 308 and Videoconference

RELATING TO STREAM MAINTENANCE

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2196, H.D. 1, establishes a two-year stream maintenance reimbursement pilot program under the Department of Land and Natural Resources (DLNR); requires a report to the Legislature; and appropriates an unspecified amount of general funds for FY 23 to be expended by DLNR for reimbursements to qualified homeowners for debris clearing under the pilot program.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

HB-2196-HD-1

Submitted on: 2/25/2022 8:25:13 PM

Testimony for FIN on 2/28/2022 12:30:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Julia M. Yano	Individual	Support	No

Comments:

I support this Bill; as a pilot program, it could serve to experiment with this setup, as a possible permanent solution.