

DAVID Y. IGE
GOVERNOR OF
HAWAII



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

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**

**Tuesday, February 8, 2022
9:00 AM**

State Capitol, Conference Room 430 & Videoconference

**In consideration of
HOUSE BILL 2196
RELATING TO STREAM MAINTENANCE**

House Bill 2169 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.

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.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

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 WATER & LAND
ON
HOUSE BILL NO. 2196

February 8, 2022
9:00 a.m.
Room 430 and Videoconference

RELATING TO STREAM MAINTENANCE

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

House Bill No. 2196 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.

MICHAEL P. VICTORINO
Mayor

ROWENA M. DAGDAG-ANDAYA
Director

JORDAN MOLINA
Deputy Director

WADE SHIMABUKURO, P.E.
Development Services Administration

RODRIGO "CHICO" R. RABARA, P.E.
Engineering Division

JOHN R. SMITH, P.E.
Highways Division

Telephone: (808) 270-7845
Fax: (808) 270-7955



COUNTY OF MAUI
DEPARTMENT OF PUBLIC WORKS
200 SOUTH HIGH STREET, ROOM NO. 434
WAILUKU, MAUI, HAWAII, 96793

TESTIMONY
OF
JORDAN MOLINA, DEPUTY DIRECTOR OF PUBLIC WORKS
COUNTY OF MAUI

TO THE HOUSE COMMITTEE
ON
WATER & LAND
THURSDAY, FEBRUARY 08, 2022, 9:00 A.M.

HOUSE BILL 2196
RELATING TO STREAM MAINTENANCE

Honorable David A. Tarnas, Chair,
Honorable Patrick Pihana Branco, Vice Chair,
and Members of the WAL Committee

Thank you for the opportunity to submit testimony on HB 2196. The County of Maui Department of Public Works offers the following **COMMENTS** to the proposed measure.

1. The bill requires that "departments that have jurisdiction over streams not maintained by the department of land and natural resources shall coordinate with the department of land and natural resources to participate in the stream maintenance reimbursement pilot program."
 - a. The bill should clarify the meaning of "coordinate". Those departments being directed to coordinate with DLNR should have a clear expectation of level of effort and costs to be incurred.
 - b. The bill should clarify the meaning of "departments that have jurisdiction over streams not maintained by the department of land and natural resources". Is this meant to include County departments or just State departments?
2. The bill seeks to reimbursement to homeowners for debris clearing up to \$2,000 annually. This reimbursement limits should vary based on the underlying land use district because the amount of effort and cost required to perform debris clearing in urbanized areas is much less than in other areas.

The current \$2,000 limit may be sufficient to support debris clearing in the urban district where homeowner are generally responsible for smaller lot sizes and the surrounding built environment reduces the quantity of natural debris. However, this amount is insignificant for homeowners in the rural, agricultural, and conservation districts where lots are significantly larger, natural debris is much more prevalent, access to streams is much more challenging, and the cost of disposal is greater.

Sincerely,

JORDAN MOLINA
Deputy Director of Public Works

HB-2196

Submitted on: 2/4/2022 10:33:10 AM

Testimony for WAL on 2/8/2022 9:00:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Bob Grossmann | Individual | Support | No |

Comments:

This pilot is important and long over due. Please fund adequately to allow sufficient exploration of stream blockage issues. Rogue trees can be cleared when first growing and other debris removed prior to major storms as a point of maintenance. Homeowners likely to be more diligent. The 2004 storm that flooded Manoa and the UH campus was extremely costly and, perhaps, preventable had the stream beds been maintained.

HB-2196

Submitted on: 2/7/2022 12:05:56 AM

Testimony for WAL on 2/8/2022 9:00:00 AM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Nancy Davlantes | Individual | Support | No |

Comments:

We've all seen what happens when debris in streams doesn't get cleared out and flooding occurs in neighboring dwellings. Responsibility for who is responsible for clean-up must be made clear, and homeowners who have to share the responsibility need to have help in this endeavor.