

**HB-246**

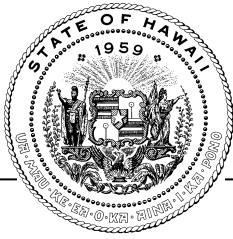
Submitted on: 2/7/2021 10:16:27 AM

Testimony for WAL on 2/9/2021 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
laurel brier	Kauai climate action coalition	Oppose	No

Comments:

Sea Walls cause coastal erosion. Do not promote their use



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DAVID Y. IGE  
GOVERNOR

MARY ALICE EVANS  
DIRECTOR  
OFFICE OF PLANNING

Statement of  
**MARY ALICE EVANS**  
Director, Office of Planning  
before the  
**HOUSE COMMITTEE ON WATER AND LAND**  
Tuesday, February 9, 2021  
9:15 AM  
Via Videoconference  
Conference Room 430  
  
in consideration of  
**HB 246**  
**RELATING TO COASTAL PROTECTION.**

Chair Tarnas, Vice Chair Branco, and Members of the House Committee on Water and Land.

HB 246 authorizes the Board of Land and Natural Resources (BLNR) a) to lease state submerged lands for private seawalls, with lease rents to be ten per cent of the real property tax assessment; and b) to adopt rules to limit temporary structures approved under emergency permits for shoreline protection and the stabilization of shoreline erosion to a maximum of three years.

The Office of Planning (OP) **supports** the measure to limit temporary structures under emergency permits for shoreline erosion to a maximum of three years, after which the structures must be removed, unless the BLNR approves them as permanent structures. Regarding private seawalls on submerged lands, OP respectfully offers the following comments:

1. For clarification, OP recommends defining the terms “private seawalls” and “abutting land owner”. Otherwise, there is no justification why an abutting landowner shall pay an annual lease rent for a seawall on the state submerged land.
2. For consistency with recent changes to HRS Chapter 205A, the OP recommends that the lease of state submerged lands for private seawalls that may be granted to abutting landowners shall not affect beaches, beach processes, and public access to and along the shoreline.
3. HB 246 proposes that any lease or easement of submerged public land shall not exceed sixty-five years by amending HRS §171-53. However, given the impacts of coastal erosion and sea level rise, HB 246 should address the issue as to how long the lease of

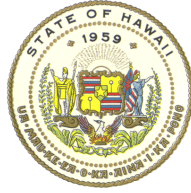
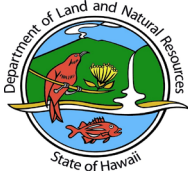
state submerged lands for private seawalls would be, and whether the abutting landowners would be allowed to repair, enlarge or reconstruct the private seawalls on state submerged lands if they pay lease rent as required by the BLNR.

4. If the rule making is necessary for emergency permits, OP suggests amendments to §171- Temporary structures; emergency permits for shoreline protection and stabilization of shoreline erosion; rules, as follows:

**§171- Temporary structures; emergency permits for [~~shoreline protection and stabilization of~~] shoreline erosion; rules.** The board shall adopt rules pursuant to chapter to limit temporary structures approved under emergency permits for [~~shoreline protection and the stabilization of~~] shoreline erosion to a maximum of three years, after which the property owner shall remove the temporary structure [~~shall be removed~~], unless the board approves the structure as a permanent structure. These rules shall also provide for fines against the permit holder for noncompliance.”

Thank you for the opportunity to testify on this measure.

DAVID Y. IGE  
GOVERNOR OF HAWAII



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

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HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the House Committees on  
WATER & LAND  
and  
HOUSING**

**Tuesday, February 9, 2021  
9:15 AM  
Via Videoconference**

**In consideration of  
HOUSE BILL 246  
RELATING TO COASTAL PROTECTION**

House Bill 246 proposes to authorize the Board of Land and Natural Resources (Board) to lease State submerged lands for private seawalls, with lease rents to be ten per cent of the real property tax assessment. The measure also requires the Board to adopt rules to limit temporary structures approved under emergency permits for shoreline protection and the stabilization of shoreline erosion to a maximum of three years, after which the temporary structure must be removed, unless the Board approves the structure as a permanent structure. **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

Regarding Section 1 of the bill, specifically the proposed subsection (a)(1), the Department notes that most shoreline encroachment easements do not involve the use of reclaimed lands so there would many instances where the Department would not receive income through a lease of reclaimed lands. In most cases, the Department would receive only lease rent for the use of submerged lands calculated at ten per cent of the real property tax assessed value of the abutting private fast land parcel, pursuant to the proposed subsection (a)(2). The Department is concerned that the valuation methodology may not accurately reflect the fair market value of the leased submerged lands as it does not appear to account for the size of the easement area. For example, it is the Department's understanding that the cost of the easement for a private parcel assessed at \$1 million would be \$100,000.00 regardless of the size of the encroachment. Depending on the easement area, a lessee could pay an amount either in excess or insufficient of the fair market value of the specific easement. Therefore, the Department recommends that the current statutory process of determining fair market through an independent appraisal remain unchanged.

**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

With respect to subsection (b), the Department notes that it is already planning to engage in rulemaking to address the issue of emergency permits for temporary shoreline protection structures. The Department believes that specific permitting requirements would be sufficiently addressed in the rulemaking process, which provides multiple opportunities for public review and input. In consideration of the foregoing, the Department recommends that this provision be deleted from the measure. Finally, regarding the proposed amendment of Section 171-53(b), Hawaii Revised Statutes, the Department's current practice is to recommend to the Board that shoreline encroachment easements be limited to a term of 25 years.

Thank you for the opportunity to comment on this measure.

LATE

**HB-246**

Submitted on: 2/8/2021 8:12:59 PM

Testimony for WAL on 2/9/2021 9:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Sherry Pollack	350Hawaii	Oppose	No

Comments:

Seawalls are the wrong approach and simply compound the problem. We need to be doing managed retreat. Please do not pass this misguided bill.