

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER & LAND

Tuesday, March 16, 2021
8:30 AM

State Capitol, Via Videoconference, Conference Room 430

In consideration of
SENATE BILL 178, SENATE DRAFT 2
RELATING TO DRIVING ON BEACHES

Senate Bill 178, Senate Draft 2 proposes to establish a two-year beach protection pilot program under which no vehicles are authorized to drive on the beach in Polihale State Park without a permit and require a report to the Legislature. **The Department of Land and Natural Resources (Department) appreciates the intent of this measure, however, the Department is in opposition and offers the following comments.**

The Department appreciates the recognition of management deficiencies at Polihale State Park, which contains sensitive cultural and natural resources, as well as acknowledgement of the modern history of illicit and damaging activities by park visitors. The Department took the unprecedented step of closing this park to the general public for several months in 2020 after inappropriate uses involving vehicle access on the beach had reached a crescendo, triggering the need for prompt action for public health and safety due to COVID-19 related protocols.

The beach driving issue is largely one of management capacity rather than policy. State Parks administrative rules (Chapter 13-146-40 Hawaii Administrative Rules) already prohibits driving anywhere other than on park designated roadways, and we have already established a permit system for vehicle access within Ka'ena Point State Park, O'ahu, where similar resource degradation was occurring unabated. However, the Ka'ena Point State Park actions were preceded by extensive community outreach and consultation prior to implementation, and there is a full-time, dedicated position to assist with education and management of the system, as well as other Departmental staff resources to deploy there that are integral to management. There is a significant administrative element with costs associated with staff receiving the online permit

application and then mailing permits and the associated stickers that identify vehicles with valid permits.

We feel that this bill ultimately conflicts the Department's strong belief that in order to protect the fragile and irreplaceable natural and cultural resources, driving on the beach should be discouraged and restricted to the greatest extent possible. We feel this would best be achieved through education and outreach rather than creating a fee/permit system where we would be dependent on issuing a large number of beach driving permits to derive meaningful revenue.

The Department's Division of Conservation and Resource Enforcement (DOCARE) does not currently possess the resources to enforce a no driving moratorium or a permit system as provided in the measure. Simply put, DOCARE does not have sufficient manpower to address the large numbers of potential violators. There are only 13 officers for the entire Island of Kaua'i that must address the full range of DOCARE enforcement duties, and all of these officers are not working at the same time. Addressing all violators on an extensive multi-mile stretch of beach with current resources is a nearly impossible task. Piecemeal enforcement may create a perception of disparate treatment and create fairness issues, where some people may receive enforcement action, and others may not.

The most viable option is a change in the community as a whole to adopt a voluntary compliance mindset. Without community understanding of the importance of not driving on the beach, and a break from what is thought to be an allowable and customary practice for so long, law enforcement action would likely be challenged and not successful.

The Department is acutely aware of the issues plaguing Polihale State Park, and therefore has budgeted existing CIP funds to initiate a management plan effort for Polihale State Park, and we included CIP requests for park improvements in the current budget request as well as our 6-year CIP plan, with an aim toward creating a set of vehicle and transportation improvements to greatly enhance dune and beach protection measures. It is our hope that these requests will be supported, and that staff capacity can also be increased commensurate with economic recovery moving forward.

Achieving equitable and responsible vehicle access at Polihale State Park requires a combination of these additional resources and enhanced management capacity, public outreach and education to modify current perception and expectations and the ability to enforce whatever model and capacity is finally determined to be the best balance between recreation and stewardship of sensitive cultural and natural resources.

Thank you for the opportunity to comment on this measure.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
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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
SENATE BILL NO. 178, S.D. 2

March 16, 2021
8:30 a.m.
Via Videoconference

RELATING TO DRIVING ON BEACHES

The Department of Budget and Finance (B&F) offers comments on Senate Bill (S.B.) No. 178, S.D. 2.

S.B. No. 178, S.D. 2, establishes a two-year beach protection pilot program within the Department of Land and Natural Resources for Polihale State Park and creates a Polihale State Park sub-account within the existing State Parks Special Fund to maintain and improve Polihale State Park by collecting unspecified permit fees charged to drive on its beach.

As a matter of general policy, B&F does not support the creation or continuance of any special fund or special fund sub-account which does not meet the requirements of Section 37-52.3, HRS. Special funds and any related sub-accounts should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and

4) demonstrate the capacity to be financially self-sustaining. Even with the establishment of a new permit fee to drive on the beach in Polihale State Park, it is uncertain whether the sub-account would be self-sustaining to achieve the purpose of this measure.

Thank you for your consideration of our comments.



Testimony Presented Before the
HOUSE COMMITTEE ON WATER AND LAND
Tuesday, March 16, 2021
8:30 AM
State Capitol (via videoconference)

By Andrew Wycklendt, President
Hawaii Shore and Beach Preservation Association

In consideration of
SENATE BILL 178 SD2 RELATING TO DRIVING ON BEACHES

Senate Bill 178 proposes to establish a two-year beach protection pilot program under which no vehicles are authorized to drive on the beach in Polihale State Park without a permit.

The Hawaii Shore and Beach Preservation Association (HSBPA)* supports Senate Bill 178 and provides the following recommendations:

1. Designate, map, and educate permit holders on acceptable beach driving routes and practices in collaboration with community stakeholders and appropriate regulatory offices.
2. Assess the legality of the measure, since current statute prohibits operating a motorized vehicle in the coastal zone.

It is our understanding that driving on beaches in State Parks is already prohibited, pursuant to HAR §13-221-26. Unfortunately, this is often not enforced due to lack of resources, funding, and personnel. Driving on the beach at Polihale has grown in popularity and gotten out of control, causing harm to natural resources and, at times, a safety hazard to the beach goer.

Sand dunes are an important part of a beach system. They keep the beach healthy with a steady supply of sand and provide important habitat for native flora and fauna. Some vehicles at Polihale beach have been observed driving through and over the dunes in a recreational manner, rather than simply accessing the shoreline. This inappropriate recreational use results in deflated and degraded dunes with reduced ecosystem function. We feel that educating permit holders on acceptable beach driving practices will reduce degradation caused by recreational use and will promote appropriate shoreline access.

In addition, the dunes in Polihale contain iwi kupuna - they were literally burial grounds for Indigenous Hawaiians from that area. Driving over these unmarked burial grounds may cause the exposure of iwi kupuna that would otherwise be left alone. We feel that designating and mapping acceptable driving routes will help mitigate this risk.

Lastly, beaches provide important habitat for threatened and endangered sea turtles and monk seals. These species are very sensitive to disturbance, including from vehicles. There is also much we don't know about the macroinvertebrate (e.g. crabs, worms, insects, etc.) assemblages living in the dry sandy beaches of Hawaii, as well as their function. We do know from studies elsewhere that driving on beaches can compact sand and affect macroinvertebrates. Based on this, we believe in all abundance of caution that the existing prohibition on driving on the beach should be enforced, and that the pilot program for a permit system contained in this bill is a step in the right direction.

*The Hawaii Shore and Beach Preservation Association (HSBPA, <https://asbpa.org/hawaii/>), formed in 2014 is an organization of private sector, academic, and government professionals, students and local community members dedicated to the preservation and restoration of Hawaii's beaches and coastal environments. The HSBPA aims to bring together various members of the coastal community to foster dialogue and cooperation on beach and coastal resource conservation, management, and regulation; supporting professional development of chapter members; and providing education to students and community members on Hawaii's beaches and coastal environments.

Thank you for considering our testimony on the bill.

Sincerely,

A handwritten signature in black ink that reads "Andrew Wycklendt". The signature is written in a cursive, flowing style.

Andrew Wycklendt

President, Hawaii Shore and Beach Preservation Association