

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



PHYLLIS SHIMABUKURO-GEISER
Chairperson, Board of Agriculture

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TESTIMONY OF PHYLLIS SHIMABUKURO-GEISER
CHAIRPERSON, BOARD OF AGRICULTURE

BEFORE THE COMMITTEE ON AGRICULTURE AND ENVIRONMENT AND WATER AND
LAND AND ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM

FEBRUARY 11, 2022
3:00 P.M.

CONFERENCE ROOM 224 & VIA VIDEOCONFERENCE

SENATE BILL NO. 2174
RELATING TO AQUACULTURE

Chairpersons Gabbard and Inouye and Wakai, and Members of the Committees:

Thank you for the opportunity to testify on Senate Bill 2174. The bill establishes within the Department of Agriculture (“Department”), an Aquacultural Area Lease Program for the purpose of identifying state facilities, state lands, and state marine waters that are suitable for use as commercial agricultural areas and leasing them to be used for aquaculture. Allows agencies having control and management of identified aquacultural areas to lease the facilities, lands, and waters to the Department of Agriculture for the purposes of the Act. Allows the program to use the moneys in the Aquaculture Development Special Fund to carry out the purposes of the Act and requires the revenues obtained from aquacultural area leases to be deposited into the special fund. Imposes penalties and civil and criminal liabilities. Exempts the program from being subject to the Hawaii Ocean and Submerged Lands Leasing Act. The Department supports this bill.

The bill would promote the State’s economic development by allowing the Department to have active oversight of aquaculture operations through the leasing function. Using a science-base approach, the Department would create a pro-development framework that minimizes negative effects on the environment through monitoring and reporting.



As such, the Department supports this measure and offers the following comments to improve the effectiveness of this bill.

- The proposed program will require additional programmatic resources (funds/staff) to ensure operational effectiveness.
- The bill would benefit from greater clarity regarding program management. As written, the program appears to be managed by the “Board” rather than the Department and is not a preferred way to manage property.

Thank you for the opportunity to testify on the measure.

SB-2174

Submitted on: 2/8/2022 2:18:33 PM

Testimony for AEN on 2/11/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Maria Haws	Individual	Comments	No

Comments:

Aloha:

I am writing this testimony as a private citizen, although I serve as a Professor of Aquaculture at UH-Hilo. I have worked since 1999 in aquaculture development in Hawai'i, and specifically since 2009 in promoting and supporting the development of Hawai'i's shellfish production. Most coastal states have thriving "mom and pop" oyster and clam farms, but the difficulty in obtaining leases for marine waters has inhibited the ability of ordinary citizens to participate in aquaculture. Although some shellfish aquaculture can occur in the loko i'a, even those practitioners who are interested sometimes cannot grow shellfish in the ponds. For example, some loko i'a are too low in salinity for oysters. However, excellent areas for shellfish and limu culture commonly exist just beyond the pond walls, but these are essentially off limits unless one has several years, thousands of dollars and the legal "know-how" to apply for a lease. Opening new opportunities for small producers in near-coastal waters would create jobs, small businesses and locally produced food.

Even restorative forms of aquaculture are inhibited by the lengthy and costly process of applying for Conservation Land leases in marine areas. Even small test sites to conduct research to establish proof of concept for near-shore seaweed (limu) culture is being held up by this process. For example, on Molokai there are several inter-tidal areas that would make excellent shellfish and limu growing areas, yet it would be almost impossible to obtain leases under the current system. There are also many near-coastal areas around the state where pearl farms could be established by cooperatives or families, similar to what occurs in French Polynesia. The only impediment to these highly feasible and sustainable forms of aquaculture is the outdated and unnecessarily complicated lease application process.

Finally, it is important to attempt to consolidate as much of the aquaculture permitting processes under HDOA since this agency has the mission to promote aquaculture as a form of agriculture and has the specialists needed to properly evaluate permit applications. Other state agencies generally lack expertise in aquaculture and moreover, there are clear cases of individuals with bias against aquaculture taking matters into their own hands and denying permit applications of various types simply because they have the power to do so. It is time to move as many permitting processes to HDOA as possible if aquaculture is to become a thriving business and opportunity for our citizens.

SB-2174

Submitted on: 2/9/2022 10:07:03 AM

Testimony for AEN on 2/11/2022 3:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robert Endreson	Testifying for Kohala Mountain Fish Company	Support	No

Comments:

We are the largest fish farm and processing facility in the State and one of the top three in the Nation and the State has barely scratched the surface of this valuable resource. Having commercial fished for over 50 years and as President of the Hawaii Fishermen's Foundation years ago, I can tell you that the conditions for our natural resources are declining at an alarming rate. From Micro Plastics in the seafood being caught to ocean temperatures changing migration and spawning patterns for species like Tuna, the state is going to have to utilize aquaculture much more. But there are a number of things missing from this legislation that I suppose can be identified moving forward.

So we whole heartedly support this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Agriculture and Environment
Senate Committee on Water and Land
Senate Committee on Energy, Economic Development, and Tourism
Friday, February 11, 2022 at 3:00 p.m.

By
Darren T. Lerner, PhD
Director, Sea Grant College Program,
School of Ocean and Earth Science and Technology
And
Michael Bruno, PhD
Provost
University of Hawai'i at Mānoa

SB 2174 – RELATING TO AQUACULTURE

Chairs Gabbard, Inouye, Wakai, Vice Chairs Nishihara, Keith-Agaran, Misalucha, and members of the committees:

The University of Hawai'i Sea Grant College Program (Hawai'i Sea Grant) strongly supports SB 2174 to establish an Aquaculture Area Lease Program. This measure specifically allows for the identification of public lands and waters to be leased for commercial aquaculture purposes.

Over the past several years, Hawai'i Sea Grant has been collaborating with the Hawai'i Department of Agriculture on several NOAA-funded aquaculture initiatives including establishing a Hawai'i-Pacific Aquaculture Consortium to promote and expand aquaculture development in Hawai'i and the Pacific region and expanding state-wide workforce development capacity for the aquaculture industry. The outcomes associated with these efforts will be extremely beneficial for the State in terms of food security, STEM education, workforce and entrepreneurship development, as well as aligns closely with the mission of our Center of Excellence for Sustainable Aquaculture and Coastal Resources.

Funding this measure will help to expand current operations and create new opportunities that will support the growth of Hawai'i's aquaculture industry and attract more investors, growers, and aquaculturists, thereby promoting the State's economic development.

Hawai'i Sea Grant's mission is to provide integrated research, extension, and education activities that increase understanding and use of ocean and coastal resources of the Hawaiian and Pacific Islands and support the informed personal, policy, and management decisions that are integral to realizing this vision. Hawai'i Sea Grant is part

of a national network of 34 university-based programs associated with the National Oceanic and Atmospheric Administration (NOAA) that promote better understanding, conservation, and use of coastal resources.

Hawai'i Sea Grant supports the intent of SB 2174 to establish an Aquaculture Area Lease Program.

Thank you for the opportunity to testify on this measure.



HATCH

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TESTIMONY OF SENATE BILL 2174

RELATING TO AQUACULTURE.

Friday February 11, 2022, 3pm

Dear Chairpersons Gabbard and Inouye and Wakai and Members of the Committees;

I am Wayne Murphy, Managing Partner of Hatch Aquaculture Fund Management LLC, Hawaii. Hatch is a global innovation and venture capital company focused exclusively on the global aquaculture and alternative seafood industry, where we work with governments, NGOs, research organizations and new ventures with offices at NELHA, Europe (Norway) and Asia (Singapore). We have a long track record of supporting sustainable aquaculture projects in Hawaii and have received a second grant period from The U.S. Economic Development Administration (EDA) to support the development of new aquaculture businesses in Hawaii in the years to come.

Our entire organization **supports SB2174** as the proposed Aquacultural Area Lease Program under the Department of Agriculture could enhance the development of sustainable aquaculture and economic development to coastal communities in Hawaii.

Aquaculture suitable state facilities, state lands, and state marine waters should be actively administered to provide new opportunities for economic development, while even providing valuable environmental services that can help restore the coastal ecosystem. Having HDOA govern the leasing function would promote productive and responsible development supported by scientific research.

Thank you for the opportunity to testify on this bill.

Sincerely,

Wayne Murphy

Co-Founder & Partner Hatch Accelerator Fund Management LLC

OFFICE OF INFORMATION PRACTICES

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To: Senate Committees on Agriculture and Environment, on Water and Land,
and on Energy, Economic Development, and Tourism

From: Cheryl Kakazu Park, Director

Date: February 11, 2022, 3:00 p.m.
State Capitol, Conference Room 224 and Via Videoconference

Re: Testimony on S.B. No. 2174
Relating to Aquaculture

Thank you for the opportunity to submit testimony on this bill, which would establish an Aquacultural Area Lease Program to identify suitable state facilities, state lands, and state marine waters and lease them to be used for aquaculture. The Office of Information Practices (OIP) takes no position on the substance of the bill, but **offers comments and a proposed amendment** regarding a provision requiring the identification and selection of aquaculture areas by the Department of Agriculture (DOA) to be “subject to chapter 92[.]”

Proposed subsection __-141(b)(1), at bill page 2, requires the identification and selection of suitable areas by the aquacultural program to be “subject to chapter 92” with DOA holding “at least one public meeting in the community in which the proposed aquacultural area is situated[.]” Part I of chapter 92, the Sunshine Law, governs open meetings of government boards and is presumably the part of chapter 92 this reference was intended for. However, the Sunshine Law applies to government boards specifically. It is not a standard that can readily be applied to a one-off public meeting or public hearing held by a

government agency or to an agency's decisionmaking process generally. As a regulatory scheme applicable to government boards, the Sunshine Law does set requirements for notice, minutes, and public participation in board meetings, but it also regulates board members' ability to discuss board business in "permitted interactions" outside the context of a meeting and assumes in its definition of a "board" that such a group has members who can be counted to determine quorum. **Because the aquaculture program would not qualify as a "board" as defined in the Sunshine Law, among other things because it does not have board members, the Sunshine Law could not readily be applied to set standards for how the program should hold a public meeting. It would make more sense to reference chapter 91, which sets out standards for rulemaking that include a public hearing, or to remove the reference entirely.**

Thus, OIP recommends that proposed subsection (b)(1) at page 2, lines 9-11, be amended to either replace "chapter 92" with "chapter 91," or to remove the reference entirely so that the provision simply reads, "The department shall hold at least one public meeting in the community in which the proposed aquacultural area is situated[.]"

Thank you for considering OIP's testimony.