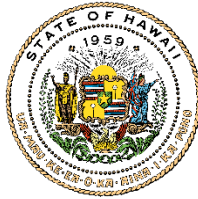


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

**Testimony of
DAWN N. S. CHANG
Chairperson**

**Before the Senate Committee on
WATER AND LAND**

**Monday, March 20, 2023
1:05 P.M.
State Capitol, Conference Room 229**

**In consideration of
HOUSE BILL 1089, HOUSE DRAFT 1
RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM**

House Bill 1089, House Draft 1 proposes to establish a state boating facility lease pilot program within the Department of Land and Natural Resources (Department) and clarify that a private partner under lease or contract with the Department may assist with development, management, and maintenance of a state small boat harbor. **The Department strongly supports this measure.**

The COVID-19 pandemic has shed light onto the fact that the Department, as a state agency, does not have the flexibility and capacity to adapt business operations in a timely manner based on rapidly changing market conditions. During the height of the COVID-19 pandemic, the Department was put on a hiring freeze, limitations were placed on spending, budget reductions were implemented, and as a result, services to the boating and general public were greatly reduced. Having the option of working with the private sector would have eliminated these issues because a private partner would not have to operate under the same restrictions that hindered the Department.

The Department currently has two harbor facilities on O'ahu that are under a public-private partnership: La Mariana Sailing Club (LMSC) and Ke'ehi Marine Center (KMC). The Department is requesting this measure so that it can pilot the same management model as LMSC and KMC in a state small boat harbor with the intent that the program be expanded statewide if it is successful.

The Department notes two common misconceptions among critics to the management model proposed by this measure: (1) private management would lead to exorbitantly high mooring fee rates; and (2) private management would lead to the transfer of state lands under public trust to

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

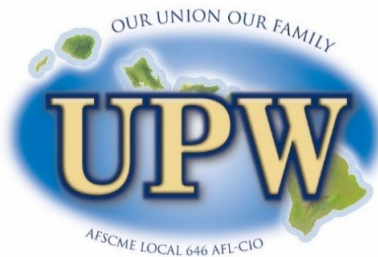
LAURA H.E. KAAKUA
FIRST DEPUTY

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

the private sector. The Department clarifies that: (1) the authority and method for determining fees remains unchanged, where the Department will set fees pursuant to Section 200-10, Hawaii Revised Statutes, with the Board of Land and Natural Resources maintaining authority for approval of any proposed fee increases; and (2) this measure will not authorize any sale or transfer of state lands and only proposes to allow a lease of one or more small boat harbors and associated submerged lands in the state to attract private partners who plan to make improvements and improve the state small boat harbor facilities. The Department has no plans for any sale of state lands and will only offer leases as part of a public-private partnership model.

Mahalo for the opportunity to provide testimony in strong support of this measure.



**THE SENATE
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2023**

COMMITTEE ON WATER AND LAND
Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair

Monday, March 20, 2023, 1:05 PM
Conference Room 229 and via Videoconference

Re: Testimony in OPPOSITION to HB1089, HD1 – RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM

Chair Inouye, Vice Chair Elefante, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents 1,500 members in the private sector.

UPW **strongly opposes** HB1089, HD1, which establishes a state boating facility lease pilot program within the Department of Land and Natural Resources (“Department”). This bill also clarifies that a private partner under lease or contract with the Department may assist with development, management, and maintenance of a state small boat harbor.

UPW has a number of concerns with this measure. We would like to note that pilot programs are typically limited in scope. HB1089, HD1, as drafted, provides the Department with the ability to lease any “state boating facility” without prior authorization from the Legislature. The Division of Boating and Ocean Recreation (“DOBOR”) has publicly stated that Ala Wai Boat Harbor has been identified for the proposed pilot program, and this bill is needed to provide the Land Board with the authority to lease the submerged lands within the harbor without the need for the Legislature to pass a concurrent resolution in order to do so.

Considering this, UPW proposes the following amendment to Section 1 to clearly state that the pilot program is intended for Ala Wai Boat Harbor:

SECTION 1. Chapter 200, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§200- **Ala Wai boat harbor lease pilot program.** (a) There is established an **Ala Wai boat harbor** lease pilot program within the department to be implemented and managed by the division of boating and ocean recreation to allow the board to lease Ala Wai boat harbor in its entirety, and fast lands and submerged lands within it, by public auction, request for proposals, or direct negotiation, for private development, management, and operation.

(b) Prior authorization from the legislature shall not be required for issuance of a lease under this pilot program.

(c) All employees of the division of boating and ocean recreation of the department who occupy civil service positions and whose functions are replaced as a result of this section shall retain their civil service status, whether permanent or temporary. Employees shall be reassigned within the division of boating and ocean recreation without loss of salary, seniority (except as prescribed by applicable collective bargaining agreements), retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws, provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

(d) The department shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days before the convening of each regular session, until the pilot program terminates. The report shall include a recommendation on whether the pilot program should be continued,

modified, or terminated.

(e) The Ala Wai boat harbor lease pilot program shall terminate on June 30, 2043."


Additionally, Section 2 of this bill seeks to amend Section 76-16, Hawaii Revised Statutes, subsection (b) to exclude employees of a yet to be determined lessee from civil service. Our greatest concern is that the proposed language of Section 2 could be used to eliminate positions that currently exist within DOBOR. As such, we are proposing an amendment (Page 13, Line 11) that would limit the civil service exception to only Ala Small Boat Harbor.

(36) Positions at Ala Wai boat harbor filled by persons employed by any lessee of the department of land and natural resources for private development, management, and maintenance of the facility.

While we remain strongly opposed to the privatization of government services that have been historically performed by public employees, we humbly request that these amendments be incorporated should the committee be inclined to pass this measure.

Thank you for the opportunity to provide testimony on this measure.

Sincerely,


Kalani Werner
State Director

HB-1089-HD-1

Submitted on: 3/16/2023 7:14:42 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kekai Keahi	Testifying for Kamaluokahalawai	Oppose	Remotely Via Zoom

Comments:

My name is Kekai Keahi and I rose in opposition.

We need only look as far as Lānai boat harbor to see that this is a bad bill. What we see at Lāna‘i boat harbor is the monopolizing of the rich and the displacement of the local community from being able to use Lāna‘i boat Harbor as a means of thoroughfare between islands. Local families have been traversing bergen Maui, Moloka‘i and Lāna‘i for generations. With one foul swoop the visiting of families between Maui and Lāna‘i has come to a drastic halt. The privatization of our boat harbors will further continue to monopolize our harbors in favor of commercial operations and further displace the local community who already suffer from over commercialization.

My name is Kekai Keahi and I am adamantly against this monopolizing and gentrifying excuse of a bill.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808 543.0011 • Fax: 808.528 0922

The Thirty-Second Legislature, State of Hawaii
The Senate
Committee on Water and Land
Testimony by
Hawaii Government Employees Association

March 20, 2023

H.B. 1089, H.D. 1 –RELATING TO A STATE BOATING
FACILITY LEASE PILOT PROGRAM

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO strongly opposes the purpose and intent of H.B. 1089, H.D. 1 which establishes a state boating facility lease pilot program. The proposed measure would allow the Board of Land and Natural Resources to lease one small boat harbor in its entirety and allow a private partner under lease or contract to assist the Department with development, management, and operation of a small boat harbor.

The HGEA represents employees at small boat harbors across the state. This measure will displace civil service employees in our respective bargaining units, who currently provide valuable services to these small boat harbors. If a private entity developed, managed, and operated a state-owned small boat harbor, this public-private partnership would go against civil service and the merit principal, where private entities are performing duties that have been traditionally performed by public servants. Civil service work should be performed by civil servants.

If the justification of this bill is to preserve coastal resources and provide a method of timely maintenance, then providing more support to our current civil service system must be considered prior to moving to private partnerships.

Thank you for the opportunity to testify in strong opposition of H.B. 1089, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director



**Testimony OPPOSING HB 1089, HD1 Relating to State Boating
Facility Lease Pilot Program**

Submitted to Senate Committee on Water and Land

Hearing to be held: Monday, March 20, 2023, 1:05 pm, State Capitol Room 229 &
Videoconference Hearing

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill presented by DLNR/DOBOR.

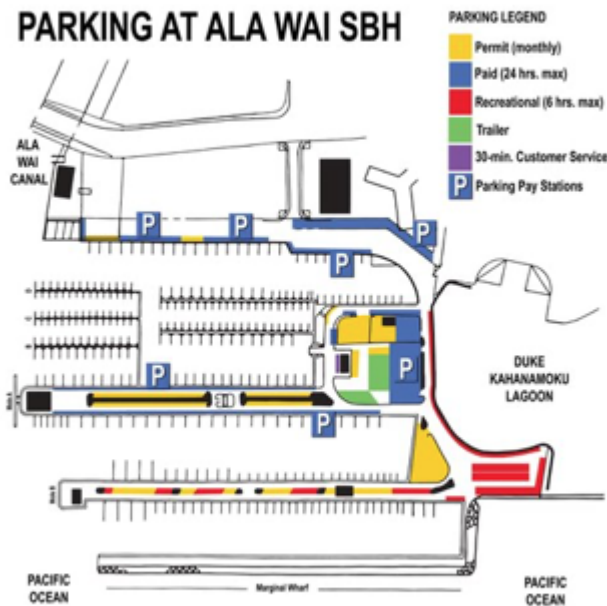
Our grassroots coalition to protect free recreational parking, strongly **OPPOSES** HB1089 because it does not include the provision to maintain 'at least 300 free recreational parking stalls' of the 941 parking stalls at the Ala Wai Small boat harbor.

If the Senators on the Water and Land Committee can integrate the goal of the 2023 proposed legislative bill SB1034, SD1 into HB1089, HD1, there would be more public support for a public-private partnership.

As a review, the wording of SB1034:

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Several community groups have actively worked to protect the free recreational parking at the Ala Wai Small Boat Harbor (AWSBH) for decades. We remain committed to preserving free parking and ocean access at the Ala Wai Harbor and the beach named after Duke Kahanamoku. This is the current DOBOR “official map” of the area. This map appears on the Harbormaster’s office door.



Our coalition would like to share some history of this parking issue:

From Linda Lingle era, 2002

Boaters say the 'Master Plan' and strategic plan from the Lingle era is not a true Master/Strategic Plan because it does not have timelines and measurable outcomes. This continues to be a problem from DOBOR until today.

Please see: 2002 Analysis of the DOBOR five-year plan, attachments below.

From Late 2007-Early 2008

[See the highlighted letter below from Ed Underwood to Legislature dated July 2007](#), requesting to convert all the AWSBH free parking to paid parking.

Based on this letter, the community protested the proposed reduction in free recreational parking at that time. There were three Public Hearings held and the State hired a Mediation Firm to work with all parties.

The outcome was a change in the wording on the parking plan which said 'no less than 300 free public parking'. So, the community gave up 249 free parking stalls in this process (January, 2008) with the idea that the 249 pay parking stalls would be a compromise to pay for the 'services' of the free parking such as shower water, street lights, pavement, and restroom maintenance.

From 2019- 2020:

In 2020 Hawaii News Now article/report "Facing backlash, Land Board scuttles parking plan for the Ala Wai Boat Harbor", see attachment below.

From Request for Proposals (RFP) 2019

The following link is a question and answer report that DOBOR to the developers:

<https://dlnr.hawaii.gov/dobor/ala-wai-rfp-2019-question-and-answer-page/>

Excerpt below is taken from the link above. This is an example of a direct answer that DOBOR gave to Developers regarding parking.

Q. Is it possible to redo the parking plan?

A. The current parking plan was approved by the Board of Land and Natural Resources (BLNR). Developers can propose changes to the configuration, but it would have to receive approval from BLNR. Some land board members are adamant about providing free parking to the public.

No RPF's were ever (publically) submitted or accepted during this 2019 privatization attempt.

Summary Statement:

The public still remains adamant about the preservation of the free recreational parking. It is now 2023. Another RFP is 'in the works', written but not published publicly yet. Our opposition to privatization that reduces free public parking remains the same. There was very strong public support of SB 1034 to protect the free public recreational parking.

Surf Parking.Org sees one possible solution in the cover drawing from the UH CDC Vision plan (below). The drawing below is a rendering of what parking would look like with the triangle parking lot removed. The new proposed road would go through the former 'triangle parking lot' area and while this makes some sense we would need to know that our 300 parking stalls would remain free. Additionally a trade could be made to give up current free parking on the 'Fuel Dock' mole and increase free parking near the lagoon. I am sure with further discussion we could come up with other ideas and a suitable agreement for all parties.

Thank you so much for taking your time to read and understand this issue. This free parking is a legacy from Duke Kahanamoku and is important to maintain for future generations.

Mahalo!

Kate Thompspon for Save Surf Parking Coalition.

Surfparking.org

kate.thompson@surfparking.org

August 2022

Duke
Kahanamoku Lagoon

Ala Wai Boat Harbor Vision Report

SAVE THIS SURF and
Recreational FREE PARKING

State of Hawai'i Department of Land & Natural Resources
Division of Boating & Ocean Recreation

University of Hawai'i Community Design Center

You may recall that after almost two years of trying to get DBOR to develop a decent Master Plan for the boaters fee increases, the two wahines on the Land Board finally picked it up and required DBOR to prepare such a plan. This was how the DBOR five-year plan came to be. I don't know how well distributed the plan was as I only got a copy because I happened to be on the Ala Wai privatization ad hoc committee. It is only seven pages, one and a half pages of text and five pages of spreadsheet data for the years 2003 to 2007. It is not well-prepared and in fact is not even signed.

However, DBOR Administrator Mason Young et al. are using it to impress legislators and others that they do indeed have a "Master" plan but they call it the "DBOR five-year plan" and inferring that it satisfied those of us who kept clamoring for a Master Plan. Nothing could be further from the truth! I have studied the plan very carefully over the past week in preparation for the hearings and I would like to share my findings with you:

The five-year plan attempts to relate the fee increases to Harbor renovation projects in an effort to show boaters where, for what and when the fee increases would be applied to achieve the overall goal of renovating all of our deteriorated State boating facilities. This is indeed part of what we wanted but it fails miserably in providing this information. Some of the reasons follow

1. The revenue figures of the Five-year Plan are limited to recreational fees and commercial fees, no other revenues are included. I compared these revenue figures with a DBOR revenue chart dated 2/21/01 handed out at the Recreational Boaters Ad Hoc Committee formed by DBOR in early 2001 and found that:

a. The Recreational fee revenues of the Five-year Plan were \$3,665,556 compared to \$3,886,000 of the other chart. Close enough for government work? However, the recreational fee revenue remained the same throughout the Five-year Plan despite the fact that the fee increase proposal is based on significant incremental increases from the second through the eighth year.

b. The yearly Commercial fee revenues of the Five-year Plan increased in the second year, but remained constant thereafter, despite the fact that a good portion of the commercial vessel permit fees are based on the recreational moorage fees and should increase in parallel with the incremental recreational fee increases. The most noteworthy finding was that the yearly commercial fee revenues contained in the 2/21/01 DBOR revenue chart (\$2,411,000) were more than \$2 million greater than the commercial fee revenues of the DBOR Five-year Plan (\$237,528). This difference increased dramatically as the commercial fee revenues of the 2/21/01 chart increased annually while the Five-year Plan commercial revenue data remained the same from the second year forward.

c. The Total yearly revenues (recreational plus commercial fees) reflected the foregoing differences with the 02/21/01 chart showing \$6,297,000 for FY 2000 and increasing each year and the Total for the Five-year Plan holding steady at \$3,903,084 from the second year forward.

2. Of even greater significance was the finding that the Five-year Plan addresses only 18 of the 236 Harbor related projects identified by DBOR as being necessary to restore the State boating facilities to acceptable standards. These 18 projects also represent only \$17,645,000 of the \$252 million price tag DBOR estimated to complete the 236 projects. Therefore the Five-year Plan addresses only seven percent of the 236 projects and seven percent of the \$252 million costs that DBOR estimated to be necessary to restore our State boating facilities to an acceptable standard. This leaves the boaters wondering if the remaining 218 projects and \$234 million costs that were not addressed in the Five-year Plan, would in fact be accomplished,—and when. Based on this Five-year Plan data, it would take DBOR 65 to 70 years to complete their 236 project/\$252 million plan to restore all the deteriorated State boating facilities. This is absolutely ridiculous.

We need a real Master Plan that takes us from where we are, to where we want to be. A plan that takes us only seven percent of the way while we are being charged for a 100 percent trip is totally unacceptable.

See you at the public hearings, Aloha, Bill hbpaa@aol.com

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Boating and Ocean Recreation
333 Queen Street
Honolulu, Hawaii 96813

July 27, 2007

Board of Land and Natural Resources
State of Hawaii
Honolulu, HI

REQUEST FOR PRELIMINARY APPROVAL TO AMEND
HAWAII ADMINISTRATIVE RULES, SECTION 13-233, AS
THEY RELATE TO MOTOR VEHICLE AND PARKING
RULES.

STATUTE: Sections 200-2, 200-3, and 200-4, Hawaii Revised Statutes

PURPOSE: Amend administrative rules to allow the division the ability to effectively manage motor vehicle parking within the state small boat harbors and related facilities, provide additional security which will be a requirement of a parking management permit, and increase fees to provide the division additional funds to improve the state boating facilities and fund other Boating program activities, and to comply with HRS 91-5 (a) requiring revision and compellation of rules every ten years.

REMARKS: The Hawaii Administrative Rules (HAR) that pertain to motor vehicle parking within the state small boat harbors and related facilities are to restrictive and do not allow the division the ability to effectively manage the parking situations at the various small boat harbors and facilities around the State. The division would like to standardize the parking rules for all the state small boat harbors and facilities and have the ability to make changes to vehicle parking configurations as needs dictate. Also, the fees for vehicle parking have not increased since the division was transferred from the DOT to DLNR in February 1994. The division will offer reduced rates to harbor tenants; however, members of the general public that are not harbor tenants will be charged an hourly fee for parking within the harbor. The division proposes to hire parking vendors to manage parking within the harbors due to limited staff and that a parking company would be better suited to manage operations because it is their area if expertise.

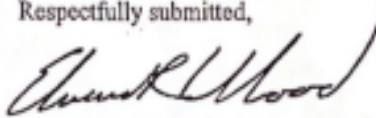
ITEM J-2

RECOMMENDATIONS:

That the Board:

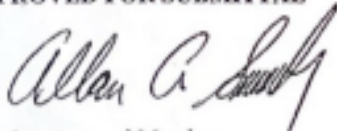
1. Grant preliminary approval to conduct public hearings on the islands of Oahu, Maui, Lanai, Molokai, Hawaii, and Kauai on the proposed amendments to the Hawaii Administrative Rules.
2. Affirm to the Department to schedule the public hearings on these rules as expeditiously as possible following the Governor's approval to conduct public hearings.
3. Authorize the Chairperson to appoint a hearing master to conduct public hearings to receive written and verbal testimony concerning the proposed amendments.

Respectfully submitted,



Edward R. Underwood
Administrator

APPROVED FOR SUBMITTAL



Chairperson and Member

2020

Facing backlash, Land Board scuttles parking plan for Ala Wai Boat Harbor

Rick Daysog, Hawaii News Now

HONOLULU, Hawaii (HawaiiNewsNow) - The state Land Board on Friday shot down a controversial plan to eliminate 125 free parking stalls at the Ala Wai Small Boat Harbor.

"I think the sentiment of the board is not to do this," said Christopher Yuen, a member of the state Board of Land and Natural Resources.

"Unfortunately, this is something -- where you're taking away what the people have enjoyed, the free parking -- that strikes a nerve."

The plan would have eliminated more than 40% of the free parking stalls at the harbor. Grassroots organizations quickly mobilized to argue against it.

"From the Ala Wai Boat Harbor, all the way to Kapiolani Park, there's no free public parking. That's the reality, said Keone Downing, of Save our Surf.

"So you've chased out the local families from Waikiki."

Added John Shockley of the Free Access Coalition: "How do people like myself, the people of Waianae, the people from Papakolea -- how do we access the beach," he said.

State boating officials said the parking is needed to serve the harbor's growing commercial activities.

"We needed more space to take care of our tenants in our harbors as well as our guests and all of the additional commercial activities," said Ed Underwood, administrator for the state's Boating Division.

Right now, there are 298 free parking stalls here, but according to the Department of Land and Natural Resources, many of those spaces are taken up by people who work in Waikiki.

"There is a lot of people who use that that work in the hotels, there is hotel guests because they don't want to pay the hotel fees," said Underwood.

Surfers and boaters agreed but they are asking for a different solution.

"I come at 5 and all of the stalls by the fence and all of the stalls by the Hilton are taken and those are not surfers," said longtime surfer Kimo Chung.

In the end, the Land Board instructed staff to work with the harbor's stakeholders to develop a more comprehensive parking plan.

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Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Cade Watanabe, Senior Vice-President

March 17, 2023

Senate Committee on Water and Land (Monday, March 20, 2023, 1:05pm)
Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair

Testimony in opposition to HB1089_HD1

Chair Inouye, Vice Chair Elefante and Members of the Committee:

UNITE HERE Local 5 represents working people throughout Hawaii's hotel, food service and health care industries. We **strongly oppose the intent of HB1089** to privatize public harbors via Public Private Partnerships.

HB1089 is one of many examples of the trend among lawmakers to hand off public commons to for-profit companies. This faith in the "free market" is fundamentally misaligned with the function and intent of governance. We urge lawmakers to stop thinking that Public Private Partnerships (PPP) are the de facto option when faced with challenging governance problems. Governments are not supposed to be profit-making enterprises. Citizens are public stakeholders, not consumers to be judged for their economic viability by private businesses. Local government should provide public spaces for public activities under the oversight of elected lawmakers.

We assume the "*Modernizing Ocean Recreation Management in Hawaii Strategic Action Plan – 2019*"¹ (the "Plan") authored in 2019 by DLNR and DOBOR is the foundation for HB1089 since it lays out the desire to permanently privatize *all of* DOBORs small boat harbors. The Plan focused on the Ala Wai harbor as the primary target for PPP over any other harbor. It's clear HB1089's intent is to privatize the Ala Wai harbor as a first step and in isolation from other harbor privatizations. HB1089 calls for a twenty-year timeline that allows only "one" small boat harbor to be leased while at the same time deleting existing statutory language (HRS200-2.6) that limited leasable areas in Ala Wai harbor to only certain smaller parcels.

The Plan is flawed, and a critical analysis of its claims leads to the conclusion that **privatizing public harbors is not necessary or desirable**. The 24-page glossy document (averaging less than 240 words a page) contains repetitive rhetoric repeating the claim that a PPP will produce a promised result. The Plan provides no substance and the public has *not* shown it even wants that promised result. In 2019 Civil Beat reported on a vetoed harbor privatization bill and the State's other longtime efforts to offload harbor management². The Plan lacks guardrails, detail, context, objective metrics, statutory frameworks, financial context, guidelines, utilization data, investment expectations, and generally lacks convincing arguments for PPP.

HB1089 and its intent should not be passed because:

- It takes away the legislature's future discretion to approve or disapprove privatization actions (HB1089_HD1).

¹ https://dlnr.hawaii.gov/dobor/files/2019/09/DOBOR-Strategic-Plan-2019_webpost.pdf

² <https://www.civilbeat.org/2019/05/blindsided-by-a-last-minute-plan-to-privatize-ianais-small-boat-harbor/>

- Statewide, there are 20 small boat harbors in the DOBOR's care. The focus on privatizing the Ala Wai harbor is concerning for systemwide revenue if less desirable/profitable harbors will remain a State responsibility.
- It wrongly paints public agencies that are not "profitable" as a problem. Government provides services for taxpayers - its justification should not be based on its profit generation.
- It ignores or doesn't value the non-financial benefit of providing residents with ample free and paid public parking in Waikiki.
- The State wants to move away from boat harbor management to focus on "rule-making, oversight, enforcement, and safety education." Citizens may balk at the idea of agency staff doing more rule-making, oversight, and enforcement.
- There are other ways to address obstacles to harbor management.
- DOBOR is not the appropriate entity to manage multi-million or multi-billion dollar privatization deals.
- There are no guardrails to what kind of commercial development is allowed.
- This 20 year "pilot program" fails to account for context once a PPP is entered into. Many public land leases are 65 years. The Plan declared a goal of permanently privatizing all harbors. A 20-year pilot project privatization deal will presumably be extended into a multi-generational loss of public control over Ala Wai harbor.

The 2019 Plan is confusing and doesn't provide a convincing argument for PPP. To summarize its main issues, the Plan simply repeats the belief that PPP will solve perceived problems, but provides no real substantive details. The Plan conflates the lack of resources to manage State harbors in a *statewide context*. After demonstrating the Ala Wai harbor is a crown jewel in terms of profitability, it makes claims about how unprofitable harbors are and then calls for the privatization of Ala Wai harbor. Moreover, a lack of resources is an issue that can be solved without resorting to giving away public land and resources to private companies.

Considering the link between the 2019 Plan and HB1089, we would like to share some key problems with the Plan itself. Excerpts from the Plan are quoted below followed by our counter points:

- *"Although the Ala Wai stands out as the highest net income generating harbor, its earning potential remains untapped. Like other State harbors, the harbor itself underperforms in revenue; it is the parking revenues that account for Ala Wai Small Boat Harbor's comparative "success."* (Page 5)
 - o The State is literally admitting the Ala Wai is its best profit generator! Why does the State want to privatize the crown jewel of its portfolio?
- *"DOBOR's regulatory scope covers a wide range of ocean-related matters, from issuance of use permits for harbors and ocean recreation management areas to regulation of ocean activities, such as diving, kayaking, surfing, and jet skiing."* (Page 4)
 - o We don't believe the State's public harbor management role should be abandoned or "sold" to private interests.
- *"The Ala Wai Small Boat Harbor is just one example of a State small boat harbor that can be better managed in order to protect the resource sustainably and serve the people of Hawai'i. Situated near Ala Moana Center, a premier retail complex that draws 48 million shopping visitations annually, the Ala Wai should offer safe and aesthetically pleasing facilities. Yet, the harbor languishes in disrepair."* (Page 5)
 - o As noted, Ala Wai is its best performing harbor. There's no nexus as to why it should be redeveloped to complement the Ala Moana Shopping Center customer experience.
 - o Magic Island, Ala Moana Beach Park, Waikiki and Kapiolani Blvd surround the Ala Wai harbor. Why does the Plan compare a boat harbor with those world class destinations? Furthermore, the scope of re-development needed for the harbor to *successfully* compete with or complement those destinations should worry any stakeholder.
- *"Although harbor management represents just a single statutory mandate, it depletes a disproportionate share of DOBOR's personnel resources. Furthermore, investing substantial funds and staff into the*

harbors has not produced a commensurate return. Revenue generated by the harbors does not even begin to offset management and maintenance costs. For the past several years, harbor management as a whole operated at a net loss. In fiscal year (FY) 2018, for example, Hawai'i's small boat harbors incurred a net loss of nearly \$2 million while consuming 69% of staff resources" (Page 7)

- Again, government public services are not meant to provide high investment returns.
- The State is not claiming Ala Wai harbor alone is losing \$2M a year; Ala Wai was its best profit generator.
- The statistics from FY2018 conflate the profitable Ala Wai harbor with the DOBOR harbor program's *statewide* unprofitability.
- A \$2 million single year deficit for 20 small boat harbors across all islands is not an unreasonable cost to provide such a significant public service.
- It would be more informative to provide detailed financial analysis over five, ten or more years.
- The "consumption" of 69% of staff resources for harbors should be taken in context. Boat harbors would necessarily require more manpower than managing something like a boat ramp (essentially a parking lot with a concrete ramp).
- *"In fact, over the past five years, an average of as much as 84.2% of staff resources were allocated towards harbor management."* (Page 7)
 - An objective analysis needs a more detailed breakdown of how work hours were allocated in the calculation of this statistic.
 - If HB1089 is to pass, which it shouldn't, we strongly support HB1089_HD1 amendments that protect good union jobs in the face of privatization. A missing piece of information is how many workers would be reassigned from the Ala Wai asset (and what percentage of department staff that'd constitute). And it needs to be said that there is no payroll cost savings, merely the reassignment of staff away from the Ala Wai.
- *FY2018 financial chart* (Page 8)
 - There are many issues with this chart.
 - Providing a single year snapshot of narrow financial data is insufficient data for analysis.
 - The single year loss of \$2M was for the statewide harbor program *as a whole* and not just the Ala Wai harbor. Again, Ala Wai was the State's best performing harbor.
 - A lot of budgetary context is missing. We need longer trends, financial information about DOBOR as a whole and by segments, explanation of expenses and cashflow, allocation of DOBOR expenses to harbors versus other segments, etc.
 - Isolating a segment that loses money in an agency as large as DLNR/DOBOR may not be appropriate.
 - If harbors are labor intensive, then it may require the most staff payroll. In comparison, boat ramps probably require less staff resources.
 - The chart metrics are confusing.
 - Is the chart exhaustive of *all* DOBOR segments' attributable profit and loss? Or is it a narrow, tailored snapshot?
 - The "non-harbor admin" profit sources are not explained. Presumably it is revenues generated by fees, licenses, fines, leases, etc. The same questions arise with the "ocean recreation" category.
 - It's unclear why "non-harbor admin" is compared with "harbors", their titles seem like mutually exclusive segments.
 - Is it appropriate to break out and compare "boat harbors", "boat ramps", "ocean recreation" and "non-harbor administration" segments? They are not defined. Any inter-relationship or overlap is not explained.
 - What is "non-harbor admin" and how did it net \$2.5M in FY2018?
 - What is "ocean recreation" and how did it net \$540k in FY2018?

- What is “boat ramps” and how did it net \$225k in FY2018?
 - Why does the chart use the terms “net revenue (+)” and “net revenue (-)” to describe what we assume is net income or loss? Are there material implications in the word selections?
 - Other than lease rent, profit is not going to be enjoyed by the State, it will be privatized profit. Failing to squeeze every last dime out of a public asset is not a reason to privatize.
- *“The management model that DOBOR inherited at its inception does not allow the division to fulfill its statutory mandates and meet its needs – it was and continues to be a system that shackles the division”.* (Page 9)
 - There are many ways to help the State in its work, or to move the work to a more appropriate department, instead of defaulting to a PPP.
- *“The division is proposing to shift to public-private partnership small boat harbor management, moving staff away from day-to-day direct harbor management, allowing staff to prioritize the exclusive governmental functions of ocean recreation management, rulemaking, oversight, and enforcement.”* (Page 10)
 - State agencies are best suited to actively manage public lands on behalf of voters.
- *“The State is underutilizing the opportunity to generate revenue from State-owned fast lands. Fast lands have immense commercial development potential to attract greater foot traffic in harbor areas and yield higher income to the State. Through this strategic plan, DOBOR can realize a more efficient management and development scheme that takes advantage of this opportunity.”* (Page 11)
 - Again, the State is not a money-making venture. It should not pursue maximization of profit.
 - Ala Wai is a public boat harbor to serve boaters.
- *“DOBOR already has demonstrated the economic viability of the concept on a small scale with Waikīkī Yacht Club, Hawai‘i Yacht Club, La Mariana Sailing Club and Ke‘ehi Marine Center. These four operations pay DOBOR just under \$825,000 per year through long-term leases of fast lands, and manage their own boating operations on those lands”.* (Page 13)
 - Private yacht clubs with monthly dues, minimum food and beverage spend requirement, rules, wait lists, sponsorship process, etc. is **not** something a public agency should promote. The \$825k paid in rent to the agency is money from local taxpayers (and visitors) who can afford private yacht club memberships. It’s a form of taxation that segregates rich and poor ocean enthusiasts.
- *Moreover, because firms aim to increase their customer base, they are adept at making business decisions that satisfy consumer needs and can respond more quickly to change as needs arise.* (Page 13)
 - Ala Wai boat harbor is finite in size. It’s not clear how any private partner will “expand” its “customer base” (boaters).
- *“At the time of the division’s transfer from DOT to DLNR, there was approximately \$300 million dollars in deferred maintenance in the recreational small boat harbors, launch ramps, and other related facilities. Some progress has been made, but this list continues to grow as the facilities age.”* (Page 4)
 - The DOT to DLNR transfer took place about thirty years ago in 1991 (Session Act 272). If the statewide deferred maintenance was \$300M then, what is the more recent figures and the figures for Ala Wai?

We do not think the bill should be passed but we can propose one mitigatory amendment to improve community benefit. A PPP deal should provide the State with percentage rent in addition to base rent. If maximizing profit is justification for a PPP, then a percentage rent system allows the State to actually directly benefit from the profit generated from the public property.

UNITE HERE Local 5 **strongly opposes the intent of HB1089** to privatize public harbors via public private partnerships. Thank you for your attention to this matter.

KINGDOM PATHWAYS



Re: Testimony in OPPOSITION of HB1089 HD1

To the Committe Members on Water and Land,

During the 1991 legislative session, via Act 272, Session Laws of Hawai'i, the Legislature transferred the boating and coastal areas program from the DOT to DLNR; approximately \$300 million was in deferred maintenance in the recreational small boat harbors, launch ramps, and other related facilities. Some progress has been made, but this list continues to grow as the facilities age. As of June 30, 2022 and 2021, the Harbors Division invested \$1,154.9 million and \$1,082.7 million in capital assets. A net increase (additions, deductions, and depreciation) of \$72.1 million or 6.7% in 2022 from the prior year. (*Accuity, n.d.*) **Respectively, why hasn't the Department of Transportation Harbor's Division paid its fair share of reparation?**

The amended "*Section 4. Section 200-2.6, Hawaii Revised Statutes, is amended to read as follows: "[[§200-2.6]] Ala Wai boat harbor; leases.*" it is unclear from this text alone whether this is related to the pilot program's chosen location. Nevertheless, Ala Wai Harbor is a public trust asset for the people of Hawai'i. Therefore, while privatization may offer potential benefits, it also raises concerns about the affordability for local recreational boaters, potential for parking fees and mooring rates increases, public access and potential environmental impacts. It's a cause for concern as a recreational boater vs. a commercial boater where capital gains are the apparent motive. The lack of transparency on the introduction of this bill is a cause for concern in it self; how is the unidentified group or individual benefiting from this public-private change?

While there are no guarantees on the level of services to be provided by the lessor, this process should thoroughly analyze the costs and benefits of different ownership models. Does La Mariana Sailing Club (LMSC) and Ke'ehi Marine Center (KMC) not forfeit the need for a pilot program. It's platform should be suffice enough to have a thorough planned offer of data, financial stats and gains to include a turnaround time. Also, what funding will these private sectors be using? Will it still be taxpayer's dollars? Finally, the lack of meaningful engagement hasn't occurred with local boaters and other stakeholders this bill need to be reassessed in it's entirety.

We need transparency and accountability; the foregoing of the Legislative process gives the private sector to much range. The bill does not clarify terms of development, i.e., could a condo be built for financial gains? *Section 1. (b) Prior authorization from the Legislature shall not be required for issuance of a lease under this pilot program.*

KP

I am a lifelong resident of Wai'anae and spent most of my childhood here in the Wai'anae Small Boat Harbor and raised my children here. This place holds my fondest memories; privatizing and the potential for a statewide change would be detrimental to our community-building aspect, and infringe on our gathering rights.

I am also a proactive community member who has worked with DOBOR on multiple projects. One of which is repairing the dilapidated Jetty Wall at Pōka'i Bay, the proposal for the buoy relocation, and addressing contaminated waters due to the lack of circulation caused by the improper build of the wall. My personal experience working with DOBOR is there's an apparent disconnect between the department heads and legislators of the state. As a result, for more than a decade, our community has contracted waterborne illnesses and has been hospitalized. Multiple bills were written urging the change, and no actions were taken. Over the two years I've been advocating these changes, I realized that if all these years the wall could have been repaired with a request for CIP funding during any of the fiscal years that passed us by, it's because no one followed through on the resolutions, and bills that were passed. Are causes to question whether the Department's District Manager (Bruce Swarts) is equipped with the know-how to deal with projects in this manner? At some point during the DLNR's Department Head time serving, are there evaluations being done to track the tasks and completion?

Ultimately, any decision regarding privatizing small boat harbors should prioritize the local community and the environment's long-term well-being over short-term financial gains. However, by working collaboratively and thoughtfully, it may be possible to find a solution that balances the interests of all stakeholders and ensures that small boat harbors remain accessible, affordable, and sustainable for generations to come.

Respectfully,

Carmen Guzman-Simpliciano
Director of Kingdom Pathways

KP

An open testimony

(Note: This testimony has been published on the Hawaii Ocean News website so that all of Hawaii might be aware of its existence.)

Regarding [HB1089](#) (companion: [SB1387](#)):

RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM

Testimony submitted by:

Katherine Lindell
Honolulu, Hawaii
Katherine@HawaiiOceanNews.com

LATE

On: March 19th, 2023

Testimony

When you lease public land, turning it into private property, and the profit-motivated corporation that you've leased it to makes significant improvements to that property, that for-profit corporation has the right to expect a return on their investment.

That return on investment will manifest itself in the form of much higher mooring and facility fees. The resulting higher fees will, by default, result in barring a large percentage of the now public boating community from ever again being able to access the moorings that were once on public property.

We've already seen a clear example of what happens when marketplace economics are ignored, as we saw in 2019 when the DLNR proposed draconian changes to §13-234. §13-234 would instantly double, and in some cases triple, the rates boaters were paying in the public harbors. As soon as the new rule went into effect, there was an almost immediate mass exodus from the harbor system because people could no longer afford to keep their boat in the state's public marina. Some simply abandoned their boats leaving a huge financial burden for the state. And to this day if you go to the Ala Wai Small Boat Harbor you'll find dozens upon dozens of empty slips left unrented for years because they can't be filled.

Similarly, when Act 42 gave DOBOR carte blanche to set fees at will, the resulting doubling (again!) of principal habitation permits near-instantly drove some into homelessness and others panicking over housing.

The marketplace reality is that overpricing creates a barrier to public use of public facilities on public properties.

The wholesale privatization of public lands — turning public property into private property — is a breach Hawaii's Public Trust Doctrine. Established by case law via a long list of supreme court and lower court decisions, the Public Trust Doctrine holds the government of Hawaii responsible for protecting the public's rights to public property. The wholesale privatization of public property is a blatant breach of the Public Trust Doctrine and is inconsistent with the intentions of our forefathers regarding the public's use of public lands.

There is a much better way to do this:

The issue at hand is public harbor *management*. The Division of Boating and Ocean Recreation, by its own admission, is incapable of managing Hawaii's public marinas on Hawaii's public lands. That's the issue and that's the challenge we're trying to resolve.

Rather than fly in the face of the Public Trust Doctrine and the public's right to access public facilities on public land, why not just tackle the problem head-on.

Demonstrably and historically DOBOR has not been able to manage much of anything. **The obvious answer is to bring in a professional marina management team that has the experience and acumen to do this job well.** This hybrid approach to managing public marinas has been the solution that most have resorted to in other states – not, by the way, Mr. Underwood's representation to you of what other municipalities are doing with their marinas.

A word about Mr. Underwood's examples of “pilot” privatization marina projects: **there has actually only been one attempt at a pilot public-private partnership** project and that was an attempt by this legislature to give the DLNR the right to privatize Manele Bay harbor in Lanai. That law turned out to be illegal and the governor was astute enough to pick it up and veto the bill before it became law.

The examples of so-called “pilot” public-private partnerships that Mr. Underwood gave — Kewalo Basin, the Hawaii yacht club, the Waikiki yacht club, la Mariana and Keehi Marine center — **were never "pilot" public-private partnerships.**

Each of those facilities have had a long history of leasing from the state, arrived at organically and without a so-called "pilot" public-private partnership deal with the state. **Each of these facilities reached a lease agreement with the state as a result of an organic evolution within that facility.**

The two yacht clubs in question, for example, had their yacht club members berth their boats on club property. Leasing space within a yacht club in order to allow yacht club members to berth their boats there is anything but a "pilot" public-private partnership.

La Mariana, for example, has a long history of berthing boats next to their Tiki Torch facility. Again, the outgrowth of their Marina facilities was an organic progression based on an already existing business on the property and was anything but a "pilot" public-private partnership.

Similarly, Keehi Marine center came about as a result of a request by Keehi dry dock that they be allowed to lease their seaward property for use as a marina. There was no "pilot" public-private agreement there. I don't know why Mr. Underwood feels like he has to lie to this legislature every time he testifies before you. You might want to query him about that.

Wholesale leasing of public properties to profit-motivated corporations is a blatant breach of the Public Trust Doctrine, and the trust of the people of Hawaii. These kinds of laws can only result in the barring of the public from the lands held in trust for the public. We ask that you do the right thing and reject this dangerous piece of legislation and encourage an intelligent hybrid solution, as suggested above, to resolve the true issue at hand.

Katherine Lindell
Honolulu, Hawaii

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20-year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR, and simply 'passing the buck' to the private sector is not the answer.

I strongly OPPOSE HB1089 because it does not include the provision to maintain 'at least 300 free recreational parking stalls' of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership:

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

The suggestion by DOBOR personnel during the testimony for SB1034 that the practice of surfing, canoe paddling, fishing, and diving at the Ala Wai Small Boat Harbor do not constitute traditional and customary Native Hawaiian practices is disappointing and factually incorrect.

To not protect the 300 free parking stalls would be devastating to the many kamaaina families that grew up enjoying this area and who wish to carry these practices forward to future generations.

Ed Underwood, Administrator for DOBOR has sought to take away this parking since 2008; most recently at the January 2020 meeting of BLNR. Sadly, we cannot rely on the 'word' of DOBOR/BLNR to protect the ocean recreational user's free parking.

Rather than working with the many constructive suggestions made by daily ocean recreational users who park there, Mr. Underwood only complains that removing hotel worker parkers is 'challenging'.

Why not craft administrative rules that assign a significant consequence for illegally parking for non-recreational users? It is very easy to identify a hotel/construction worker as they are leaving their vehicle; DOBOR simply has not dedicated any personnel to monitor the area. Even periodic monitoring with a significant consequence would greatly reduce this problem.

The WTL Committee, especially Chair Inouye and Senator McKelvey, have posed many of these positive suggestions/questions; the ocean recreational crew is extremely grateful for your careful consideration of the ramifications of this bill.

Amendment #2

Lease only ONE Parcel-Lot at a time. For instance, the Fuel Dock area. Rebuilding the fuel dock according to the suggested plan in the UHDCDC Vision Document. This would be an appropriate site 'to start with', as a pilot. This could be funded with matching State CIP and a 'Private Investor' funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the 'build'.

We are very appreciative of the WTL Committee's consideration.

Mahalo,

Kristine Chung

HB-1089-HD-1

Submitted on: 3/16/2023 5:55:27 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
tiare lawrence	Individual	Oppose	Remotely Via Zoom

Comments:

I strongly OPPOSE privatizing Hawai'i's small boat harbors. This will open the state up to criticism and lawsuits. Please kill this bill

HB-1089-HD-1

Submitted on: 3/17/2023 1:04:18 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Margaret Hallahan	Individual	Oppose	Remotely Via Zoom

Comments:

OPPOSING HB 1089, HD1 Relating to State Boating, please see previous testimony. LAst hearing I was waiting the whole meeting to be connected to the zoom but the person in the hearing was not able to connect.

Douglas Meller
2615 Aaliamanu Place
Honolulu, Hawaii 96813
douglasmeller@gmail.com

**Testimony Requesting Amendment of HB 1089, HD1
Relating to a State Boating Facility Lease Pilot Program**

Submitted to Senate Committee on Water and Land
Monday, March 20, 2023, 1:05 pm, State Capitol Room 229 & Videoconference Hearing

Please amend HB 1089, HD1, as proposed in Section 2 of SB 1034, SD1, to require that

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

This amendment will guarantee future Hawaii residents the same recreational ocean access that I had. I am 75. I have parked at Ala Wai Harbor for access to Waikiki Beach and surf spots for almost 60 years. For a few years, before my wife talked some sense into me, I owned a 22' trimaran daysailer moored in a slip at Ala Wai Harbor. When my friends and family went sailing with me, we all used the public parking at Ala Wai Harbor.

Public parking lots which Hawaii residents use for recreational ocean access should be managed like a kind of park facility and maintained with public general funds. They should NOT be managed like pay toilets maintained with user fees. It's simply wrong for public agencies to charge fees for Hawaii residents to park on public property to use the beach, swim, fish, or surf. And it's simply wrong to allow private lessees, concessions, or contractors to charge fees for Hawaii residents to park on public property to use the beach, swim, fish, or surf.

HB-1089-HD-1

Submitted on: 3/16/2023 11:59:30 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Kate Paine	Individual	Oppose	Written Testimony Only

Comments:

Not win:win. Citizen access w/o pay is nil.

HB-1089-HD-1

Submitted on: 3/17/2023 12:20:28 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Diane L Koushki	Individual	Oppose	Written Testimony Only

Comments:

Testimony OPPOSING HB 1089, HD1 Relating to State Boating Facility Lease Pilot Program

Submitted to Senate Committee on Water and Land

Hearing to be held: Monday, March 20, 2023, 1:05 pm, State Capitol Room 229 & Video conference Hearing

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership.

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Amendment #2

Lease only ONE Parcel-Lot at a time. For instance, the Fuel Dock area. Rebuilding the fuel dock according to the suggested plan in the UHCDC Vision Document. This would be an appropriate site ‘to start with’, as a pilot. This could be funded with matching State CIP and a ‘Private Investor’ funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the ‘build’.

sincerely, Diane Koushki

HB-1089-HD-1

Submitted on: 3/17/2023 3:03:56 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
William Murphy	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

Please vote no on the crossover bill HB 1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 4:07:04 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Nicodemus Mason	Individual	Oppose	Written Testimony Only

Comments:

I am in opposition of this bill because, as a faithful resident of Hawai'i and an avid surfer, the Ala Wai harbor parking lot has benefitted me in so many ways, and it would be tragic if it was closed off to the public. First of all, Ala Moana Bowls happens to be my favorite surf spot, located right off the parking lot. I have spent so many hours there, improving my surfing and having fun with friends. If this bill goes through, it would make it so hard for both me and all my fellow surfers to surf at Bowls. Secondly, the parking lot has acted as a gathering place for salsa dancing and church gatherings, which I have attended repeatedly. If this bill is passed, access to these events will be limited. In conclusion, I am not in favor of this bill because it will make thing more difficult and complicate the simple act of going surfing or attending a small gathering.

HB-1089-HD-1

Submitted on: 3/17/2023 4:16:15 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Courtland H. L. Pang	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Inouye, Vice-Chair Elefante, and members of the Senate Water and Land Committee:

I strongly oppose HB1089 HD1 because it would give DLNR/DBOR (Division of Boating and Ocean Recreation) carte blanche to lease any "...state boating facility..." to any private entity, without any safeguard whatsoever for the interests of the small boating public.

Given that a "state boating facility" is defined within HB1089 to mean a small boat harbor (SBH), including launching ramp, pier, etc., I ask the Committee to recall that HRS Chapter 115 enshrines the right of citizens of Hawaii to unfettered access to the sea and to therefore understand that SBH launching ramps and associated docks are the *only* means of access to the sea for the small boating public. Simply put, the overwhelming majority of your constituents who have a small boat keep it on a trailer and need a decent launch ramp to put to sea.

While a Public/Private/Partnership (PPP) would purport to provide improved facilities to the small boating public, what is left unspoken is the fourth "P". A private entity exists to make a Profit. It may provide improved facilities, but only if it can make a Profit while doing so. HB1089 does not address potential fee increases nor reductions in services the private entity may make in order to achieve that Profit, despite such fee increases or reductions in service adversely affecting the right of the public to unfettered access to the sea.

A case in point, and a lesson not to be forgotten, is that of the Ko Olina boat ramp. That privately operated boat ramp, required to provide public access as part of the agreement to allow resort development, now has restricted operating hours, charges a fee for each use, and provides nothing but locked porta-potties for restrooms. The small boating public no longer has unfettered access to the sea at Ko Olina.

Any claim by DLNR that it would regulate fees in the public's interest is disingenuous because to deny the private entity Profit from fee increases would only lead to reductions in service or even a failed PPP, counter to DBOR's apparent goal of privatizing SBH in general. What SBH has sufficient adjoining "fast land" for a private entity to develop for a Profit? The Ala Wai SBH has seen failed PPP efforts even though it offers a prime parcel for such. Other SBH without sufficient Profit making "fast lands" would have to see enormous fee increases or reductions in service to hope to garner a Profit and both would reduce the small boating public's access to the sea.

In view of the several resolutions - SR162, SCR224, HR27, HCR25, HR148, HCR146 - introduced in this legislative session calling for audits of DBOR management practices, it makes no sense to blindly, without safeguards, entrust the future of an SBH and the small boating public's right of access to the sea to DBOR via HB1089.

The small boating public does not want world class launching and docking facilities that it cannot afford nor restricted use that does not support its needs. We just want decent, useable, accessible, facilities that are reasonably maintained and cared for. That should not be too much to ask from a department that is funded by the taxes we pay, nor too much to ask of a division to which we pay annual fees explicitly to repair and maintain the ramps and docks.

I note that your committee had the wisdom to not hear the SB1387 companion to HB1089 and I pray that same wisdom prevails and respectfully ask that WTL now also disapprove HB1089.

Mahalo,
Courtland Pang

HB-1089-HD-1

Submitted on: 3/17/2023 6:09:35 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Andrew Myshin	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 6:50:05 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Amanda Millin	Individual	Oppose	Written Testimony Only

Comments:



HB-1089-HD-1

Submitted on: 3/17/2023 6:59:03 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Winnie Ho	Individual	Oppose	Written Testimony Only

Comments:

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 7:00:30 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Adam White	Individual	Oppose	Written Testimony Only

Comments:

Aloha again.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

The ocean is our refuge. Many of us are on tight financial budgets already. Please don't jeopardize our access to the ocean.

Aloha.

Adam

HB-1089-HD-1

Submitted on: 3/17/2023 7:50:54 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Noelani Kazama	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 8:03:01 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Justin Heikkinen	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership.

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Amendment #2

Lease only ONE Parcel-Lot at a time. For instance, the Fuel Dock area. Rebuilding the fuel dock according to the suggested plan in the UHCDC Vision Document. This would be an appropriate site 'to start with', as a pilot. This could be funded with matching State CIP and a 'Private Investor' funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the 'build'.

HB-1089-HD-1

Submitted on: 3/17/2023 8:24:35 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Marilyn Mick	Individual	Oppose	Written Testimony Only

Comments:

Aloha, I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership.

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Amendment #2

Lease only ONE Parcel-Lot at a time. For instance, the Fuel Dock area. Rebuilding the fuel dock according to the suggested plan in the UHCDC Vision Document. This would be an appropriate site ‘to start with’, as a pilot. This could be funded with matching State CIP and a ‘Private Investor’ funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the ‘build’.

Mahalo, Marilyn Mick, Honolulu

HB-1089-HD-1

Submitted on: 3/17/2023 8:43:27 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
John Parkinson	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 8:55:58 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Theresa Strange	Individual	Oppose	Written Testimony Only

Comments:

This bill is unacceptable for the citizens of Hawaii and people of Honolulu.

HB-1089-HD-1

Submitted on: 3/17/2023 8:53:04 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Juanita Aguerrebere	Individual	Oppose	Written Testimony Only

Comments:

Aloha Senators,

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor. Please keep the beach and water accessible for all and that means a safe and free place to park.

Mahalo,

Juanita Aguerrebere

HB-1089-HD-1

Submitted on: 3/17/2023 9:48:50 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
kahealani enoka	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor. Please help us to protect what little spaces we have left. We use this lot to access our beach and local surf breaks. Some of us been here over 30-40 years, privatization Is not the answer!

Mahalo,

Kahealani

HB-1089-HD-1

Submitted on: 3/17/2023 9:53:41 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Abbott	Individual	Oppose	Written Testimony Only

Comments:

Dear Senator Inouye and Vice Chair Elefante of the Senate Water and Land Committee,

Please vote NO on the crossover bill **HB 1089, HD1** that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor. There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership. Right now due to previous broken promises by DOBOR, the public unfortunately is mistrustful about what will happen if DOBOR/DLNR is allowed to effectively "sell off" this public land with no measurable goals or accountability for poor outcomes.

Goal SB 1034: Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Amendment #2 Suggestion:

Lease only ONE Parcel-Lot at a time. For instance, start this PILOT with the **Fuel Dock area (see picture below)**. The fuel dock was funded to be rebuilt in a failed public private partnership years ago (ask DOBOR about Honeybee Project. They went bankrupt in large part because DOBOR would not cooperate with Honeybee on environmental cleanup prior to redevelopment of the haul out and fuel dock site). Rebuilding the fuel dock now according to the suggested plan in the UHCDC Vision Document would be an appropriate site ‘to start with’, as a pilot. This could be funded with matching State CIP and a ‘Private Investor’ funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the ‘build’. This could be a "good faith" show by DOBOR that it will abide by it's promises to the community.

This is the current condition of the fuel dock.



Amendment #3 Suggestion:

As another possible show of good faith, DOBOR could immediately initiate a comprehensive **pilot** parking program which would include an official contract undertaken by normal bidding process to establish a parking program which would include parking attendants that can enforce violations with warnings and tickets, improved pole and ground signage and an immediate K2 land survey of the parking areas to determine the exact locations for designated/specialized and regular parking stalls. This is required because DOBOR has consistently failed over the years in parking management and demonstrated that they are unprepared and unwilling to improve. In addition we would like you to know that there are questionable policies that allow Mr. Tow and the tow truck operators to enforce parking violations as they see fit and demand cash payments at the tow yard. We have discovered that there is inside information from Secure P parking as to the exact time meters expire and Mr. Tow uses this information to tow cars **instantly**. This is way too harsh a penalty for recreational parking. This is why we are requesting a pilot program to add a ticketing stage to parking enforcement.

HB-1089-HD-1

Submitted on: 3/17/2023 10:01:13 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Marisa Pangilinan	Individual	Oppose	Written Testimony Only

Comments:

Aloha and thank you for your time. My family and I spend our days and evenings here nearly 5 times a week. We could not afford to pay for parking every visit. We use this facility and this beach as our child's playground and fun zone. I'm saddened to have to fight for the right for free parking when every other zone in south Oahu forces paid parking too. Can we keep this space sacred and free for the citizens of Hawaii to enjoy without trying to monetize every experience? Thank you.

HB-1089-HD-1

Submitted on: 3/17/2023 10:07:53 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Emanuel Pangilinan	Individual	Oppose	Written Testimony Only

Comments:

The Ala Moana Boat Harbor Parking lot is access to the best waves on the South Shore for Ocean Activities like surfing and canoe paddling and is a breeding ground for the cultivation of the Aloha Spirit. To make Locals Pay for parking is to Hinder the Cultivation of Aloha. Please nurture and let the Spirit of Aloha be free.

HB-1089-HD-1

Submitted on: 3/17/2023 11:00:23 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Sandra L Dahl	Individual	Oppose	Written Testimony Only

Comments:

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 11:41:12 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Christian Squire	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

Please oppose HB1089 HD1.

Mahalo for the opportunity to testify,

Christian Squire

HB-1089-HD-1

Submitted on: 3/17/2023 2:59:51 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Angela Huntemer	Individual	Oppose	Written Testimony Only

Comments:

Aloha Senators (Water and Land Committee),

Please vote NO on HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership.

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Amendment #2

Lease only ONE Parcel-Lot at a time. For instance, the Fuel Dock area. Rebuilding the fuel dock according to the suggested plan in the UHCDC Vision Document. This would be an appropriate site ‘to start with’, as a pilot. This could be funded with matching State CIP and a ‘Private Investor’ funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the ‘build’.

Mahalo.

HB-1089-HD-1

Submitted on: 3/17/2023 4:10:15 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Casey Huddleston	Individual	Oppose	Written Testimony Only

Comments:

These small boat harbor NEED to stay for the public by the public. Everyone should be able to enjoy the beauty! Also I think people who do have boats here have the experience to stay where they are supposed to be and not end up on the beach and properly maneuver them

HB-1089-HD-1

Submitted on: 3/17/2023 4:20:06 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Marion Lyman-Mersereau	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

There are many questions yet to be answered about this bill by DLNR/DOBOR.

I strongly OPPOSE HB1089 because it does not include the provision to maintain ‘at least 300 free recreational parking stalls’ of the 941 parking stalls at the Ala Wai Small boat harbor.

Amendment #1

If Senators integrate the goal of SB1034, SD1 into HB1089, HD1 there would be more public support for a public-private partnership.

Any lease of fast lands and submerged lands of the Ala Wai boat harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost for recreational ocean access and for the practice of traditional and customary Native Hawaiian rights.

Amendment #2

Lease only ONE Parcel-Lot at a time. For instance, the Fuel Dock area. Rebuilding the fuel dock according to the suggested plan in the UHCDC Vision Document. This would be an appropriate site ‘to start with’, as a pilot. This could be funded with matching State CIP and a ‘Private Investor’ funds, for a 20 year (limited, no future) lease. Only the existing fastlands and submerged land area should be used for the ‘build’.

- I've surfed this area for over 30 years and hope to continue to be able to access this beach for many years to come without having to pay for parking. If I have to paddle across the channel to get to my "spot" it will be dangerous for myself and for boaters entering or exiting the Ala Wai Harbor.

HB-1089-HD-1

Submitted on: 3/17/2023 4:46:53 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Gordon Fowler	Individual	Oppose	Written Testimony Only

Comments:

All concerned

While I can support, as a harbor user, the principle of leasing Small boat operations to a private concern, as long as the result is not to price us out of the facilities. The Ko Olina harbor being an example.

I am however concerned that there are no guarantees in this bill as to the quality of the services to be offered by the lessor and that fees will not be elevated out of reach., catering only to well off Yacht owners as opposed to us the little folks.

As to maintaining the harbors, by private enterprise, there is no place to go but up. Conditions at the facilities under the present DOBOR management are abysmal.

The Small Boat Harbors are an embarrassment to the State.

The other problem I see is that it seems like the very same DOBOR management team that has been responsible for the deterioration of the Small Boat Harbors would be the ones to choose a partner, without any input from our elected officials. This is not the pervue of unelected bureaucrats. People who can be held accountable to the electorate need to have the final say.

Carte Blanche is given to DOBOR to pick a vendor, any vendor, and a particular harbor is not names as the test case.

Let me point out that in this session alone there are some six bills calling for an audit of DOBOR citing mismanagement and allowing the harbors to fall apart.

I don't want the present management to have anything to do with the implementation of this measure if enacted. Their track record speaks for itself. Just go visit Ala Wai and Keehi small boat harbors. Facilities on the neighbor islands face similar issues. The places are awfull.

Please vote no on this bill and give it some further thought.

Something similar with adult supervision may work out well, and certainly without the present DOBOR management involved.

Aloha

Gordon Fowler

HB-1089-HD-1

Submitted on: 3/17/2023 6:02:32 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
keone downing	Individual	Oppose	Written Testimony Only

Comments:

Madam Chair Inouye and members of WTL,

I oppose.

There are more unanswered questions than answered questions.

What is the real problem of why we are doing this.

Is this in the best interest of the public trust.

Each harbor is unique so what are the measurements to be used in picking one for the pilot. If this is set up to choose AlaWai small boat harbor then they should say it.

How is the boating fund going to be effected by this privatization and will monies lost be subsidized by the legislature into the boating fund.

DOBOR has No expertise to choose a private entity let alone implement and manage. When they went out to RFP previous there committee of experts found no qualified entity.

A developer will have a hard time to get his ROI with this short 20 year lease. What is the States liability and exposure if entity fails. Will this become another Honey Bee.

This looks like a backdoor way to privatize a small boat harbor.

This is a big decision that needs to have checks and balances.

DOBOR can not do all the things they have now.

Why should DOBOR be able to circumvent policies all other departments and agencies have to follow.

Mahalo, Keone Downing

HB-1089-HD-1

Submitted on: 3/18/2023 6:26:51 AM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Crystal Dombrow	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators of the Water and Land Committee,

Please vote NO on the crossover bill HB 1089, HD1 that seeks a 20 year privatization lease of the Ala Wai Small Boat Harbor.

I strongly OPPOSE HB1089 because it does not include a provision to maintain at least 300 free recreational parking stalls of the 941 parking stalls at the Ala Wai Small boat harbor.

I surf Ala Moana Bowls 3 to 4 times a week and there already isn't enough parking in the area; the lot is often filled up at dawn. This is the most consistent and accessible surf on the south shore, and the only free parking near Waikīkī. The original intent of these parking spots was to provide locals with free access to the ocean and surf in the most heavily tourist and developed area on the islands. If more spots are to be converted to paid spots, we'll end up parking at Magic Island and paddling across the boat channel to access the surf, which puts us in danger.

Alternatively, please include a provision to indefinitely guarantee these 300 free parking spots.

HB-1089-HD-1

Submitted on: 3/18/2023 12:21:23 PM

Testimony for WTL on 3/20/2023 1:05:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeffrey L. Hossellman	Individual	Comments	Written Testimony Only

Comments:

Retired attorney and yacht club member since 1985 here. Live on Pacific Heights.

Perhaps it is best to identify in the bill the harbor to privatize. Assuming Ala Wai is identified would suggest the area be limited to less than all the harbor to give it a chance to move forward without a protest.

The fuel dock and all slips on 600 and 700 row as a package could be something to get the process moving. A public restaurant with plenty of open space underneath for paddlers, junior sailors, surfers and the general public should find support. The bill limited to that certain area will have a better chance of passage.

When and if that is completed another area can be offered. No big hurry. The State has been trying to do this for over 30 years. One step at a time will get the job done.

The biggest worry for the boaters is a private operator with monopoly pricing. However if there are several operations plus the State operating some slips there will be price control through market forces.

The DLNR will need continued legislative oversight. They appear to have a history of disregarding the clear law. The legislature passed a bill permitting limited use of the Ala Wai by charter boats. DLNR then passed a rule allowing unlimited use for charter boats, or so it appears to this writer from legal research.

We need a Respected local operator for this initial phase of the project.

Thank you very much,

Jeff

Aloha members of the Committee,

My name is Joseph K. Simpliciano, and I am a DOBOR employee and **strongly oppose HB1089 HD1**. I am against this bill for many reasons.

For one, it is a shame that the leadership from a state agency and elected officials are "quitting ." Being a public trust entity, the State and elected officials have not worked together to find a solution to the 1991 maintenance deficit of \$300,000,000. No one has attempted to hold the Department of Transportation accountable to at least furnish some of the funds for the overdue repairs that were in place before the turnover.

I am also against any private entity controlling any State harbor and removing any civil servants from public property. Civil servants should always be on the property and have a hand in its daily function, especially as an agent of the State.

The privatization of a State Harbor only benefits the private sector, and you can see it in the other testimonies from any commercial operator and owner. They have no issue with how the harbor will go because they are already making a good amount of money rather than what they are paying the State in taxes and revenue. The only people any privatization will hurt is the community a harbor sits in and the recreational boaters, as it will affect their daily life in more than one way.

As already seen, private harbors like Ko'olina have a public launch ramp which people need to schedule with Ko'olina, and if approved, the public can launch; if not, they need to drive elsewhere.

This bill also does not state where any funds are coming from, and being that fees are passed through the law, there can not be a rise in fees any time soon. We are doing the best we can each and every day at the harbors. Still, it seems as if when we ask for repairs to be done, we never get the funding, whether through the Department or asking our elected officials for funds, or it doesn't happen.

A prime example is the Pōka'i Bay jetty which lay in disrepair for over 30 years, and only this year was funding requested. In 1987, Governor John Waihee spoke about revitalizing Honolulu's waterfront from ala wai to Ke'ehi. However, it was meant to include input from the public and kept as a public waterfront for all to enjoy. Privatization of any sort goes against this.

As a person who spent a career in the military with Six combat tours, I spent a reasonable amount of time in different countries helping to rebuild it and install a government and public servants. So for me, this is the reason why I am opposing this bill because there is more than one way to work on a solution instead of giving up and then giving it to a private entity, especially as a public trust State and Agency.

Respectfully,

Joseph K. Simpliciano

LATE

From: [Robert Duerr](#)
To: [Sen. Lorraine R. Inouye](#)
Subject: Do not pass HB1089 SB1387 RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM.
Date: Sunday, March 19, 2023 7:07:17 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Aloha Lorraine.

Please do not pass HB1089 SB1387 RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM. There is no accounting and no public outreach. Here is my testimony.

Mahalo,
Bob Duerr
Honolii Hilo

Do not pass HB1089 SB1387 RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM. Instead command that DOBOR accounts for the Special Boating Fund informs the public of their strategic plan to lease harbors.

We must remember that Hawaii is an ocean state and that access to the sea is the life blood of the citizens of Hawaii. Hawaii harbors are used by lawai'a, fisher folk who want sustainable food security for the Hawaii's ocean ohana. These are rights protected in the Hawaii Constitution.

In 2019 the Department of Boating and Ocean Recreation eliminated its obligation to promote fishing from HRS statutes. Now they want to privatize boating and avoid legislative scrutiny. all the while neglecting to inform Hawaii citizens, ocean users, boaters and fishers of their intentions. It's not the first time.

Remember that in 2019 there was another DOBOR pilot harbor lease proposal. House Bill 1032 to lease Lanai's Manele Small Boat Harbor passed the state House and Senate. Lanai is 98% owned by Larry Ellison who is a world class yachtsman and America's winner. Would a 100 billionaire be good for Manale Small Boat Harbor? We'll never know there was no public discussion. The Governor vetoed HB1032 saying that it lacked public input.

HB1089 the Boating Facility Pilot Program Legislation is misleading. DLNR Chair Dawn Chang writes in her testimony to support HB1089 that there are already harbor facilities under public-private partnership.

“The Department currently has two harbor facilities on O‘ahu that are under a public-private partnership: La Mariana Sailing Club (LMSC) and Ke‘ehi Marine Center (KMC),” Chair Chang writes. “The Department is requesting this measure so that it can pilot the same management model as LMSC and KMC in a state small boat harbor with the intent that the program be expanded statewide if it is successful.”

Boating wants out of boating as stated in DOBOR's “Modernizing Ocean Recreation Management in Hawai'i Strategic Action Plan 2019.” DOBOR Administrator Ed Underwood vision is that all state small boat harbors will become Public-private partnerships. In this document with suspect accounting standards DOBOR claims that boating lost over \$2 million

dollars in 2018.

DOBOR's Underwood at the 6/14/19 BLNR meeting to raise boating rates stated "2018 the mooring program operated a two million dollar loss. And as the first half of this fiscal year the mooring program is operating at a one point six million dollar loss. So we're nowhere near keeping up with just basic break even right now. We're relying on other fees from other sources. Um, that the money we get from the uh, fuel tax, the land lease rents, all the other fees we collect are all pooled into the special funds and that's what's keeping the, the harbor is running right now."

Where's the accountability. When small boat harbors were transferred from DOT to DLNR in 1991 by Act 272 the Boating Special Fund went with it. This Boating Special Fund is to allow small boat harbors to be sustainable. Its funds are generated from the boating program is paid for by the Special Boating Fund. Where is the accounting for these funds? Where is the financial support that this privatization will help and not hurt or hinder Hawaii Boating.

DOBOR says boating is broke. DOBOR's Underwood at the 6/14/19 BLNR meeting to raise boating rates stated "2018 the mooring program operated a two million dollar loss. And as the first half of this fiscal year the mooring program is operating at a one point six million dollar loss. So we're nowhere near keeping up."

Underwood claimed at the same meeting that it has to fund boating shortfalls: "We're relying on other fees from other sources. Um, that the money we get from the uh, fuel tax, the land lease rents, all the other fees we collect are all pooled into the special funds and that's what's keeping the, the harbor is running right now."

DLNR Chair Suzanne Case in her testimony against House Bill 1299 (HB1299), which proposed to repeal various non-general funds and transfer unencumbered balances to the credit of the general fund, Case said "HRS §248-8 establishes the Boating Special Fund. Funding is derived from fees collected for the use of the state small harbors, commercial activities occurring in state waters, property leases, vessel registration fees, federal funds, fuel tax revenue, and other fees associated with the boating and ocean recreation program. The purpose of the fund is to fund the State small boat harbor and coastal area programs.

Mr Underwood apparently doesn't realize that to fund boating he doesn't have to rely on fuel tax revenues because they should be applied to boating.

The other reason DOBOR wants out of boating is more money. "But the boom in ocean recreation, the weather, and Hawai'i's landscape and culture - the engine that keeps Hawai'i's economy healthy - does not result in a windfall in funding for DLNR or DOBOR," says the DOBOR Strategic Action Plan.

The way for DOBOR to exit boating is by leasing public harbors. If you can't manage Boating administration what makes DOBOR think they can become a commercial lease operator?

DOBOR has admitted in its Strategic Action Plan is that they are not able to efficiently operate a statewide boating program. What they have not admitted is that their track record is terrible at leasing state facilities.

The failed Ala Wai Small Boat Harbor HoneyBee USA Wedding Chapel lease negotiation took ten years to negotiate unsuccessfully and cost boaters over \$500,000.

A Kona Honokohau Harbor lease was another disaster costing boaters \$423,000. DOBOR didn't allow the tenant to inspect the property before signing the lease. When the tenant inspected the property they found that it was not as advertised.

BLNR described this DOBOR lease blunder in their July 2020 meeting agenda:
“INTRODUCTION Division of Boating and Ocean Recreation manages state small boat harbors. harbors, including Honokohau SBH on the Big Island, a few miles from the Kona Airport. DOBOR leases land at the harbor to various tenants including Pacific Marine Partners LLC. PMP has a number of claims against DOBOR. We are recommending settlement in the amount \$423,000 for the reasons and on the terms stated in this submittal.”

Where's the transparency? DLNR's State Parks and Division of Aquatic Resources both engaged the public with issues. State parks when they sought a strategic direction and DAR with their Holomua 30x30 reef conservation proposal. There has been no DOBOR outreach to the boating community or public on DOBOR's strategic plan to incrementally privatize small boat harbors.

Can the legislature please have DLNR and DOBOR bring forward an audited accounting for the Special Boating Fund?

Can the legislature command that DLNR and DOBOR conduct statewide public hearings on the Special Boating Fund and the DOBOR strategic plan to eliminate boating from the Department of Boating and Ocean Recreation?

Lawai'a are concerned that once public harbors are gone they will never come back.

Mahalo.
Robert Duerr
Albatross News
Hilo, Hawaii

LATE

**Testimony of
SCOTT F. ALLEN**

**Before the Senate Committee on
Water and Land**

**Tuesday, March 20, 2023
1:05 P.M.
State Capitol, Conference Room 229**

**In consideration of
HOUSE BILL 1089
RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM**

I work as an economic planner at the State Office of Planning and Sustainable Development. I have a Master's Degree in Urban and Regional Planning and am a current PhD student at UH Manoa. As a resident of Hawaii's harbor system with a deep knowledge of regional systems, I **strongly oppose HB 1089** due to *numerous unanswered questions regarding the potential negative impacts to both our state harbors and their associated communities*. In this testimony I speak to a few of those questions.

My first questions are related to the impact of leasing submerged lands at the harbor on the special boating fund. From previous communication and interactions with DOBOR Administration, I am under the impression that:

1. The special boating fund is not harbor specific—mooring fees collected from across the state may be allocated to improvements at any harbor in the harbor system rather than just to the harbor generating the funds; and
2. Out of all the harbors under DOBOR's management, the Ala Wai Small Boat Harbor (AWSBH) generates the most revenue for the special boating fund.

If these two statements are true, leasing the submerged lands at Ala Wai to a private entity would seem to drastically reduce the funds the state can access to maintain all the harbors. To this regard, I ask: *what is the impact of privatizing AWSBH on the special boating fund? What, in turn, does this mean for the maintenance of other harbors across the state?*

My next questions relate to equity. Urban Planners across the nation have become increasingly aware of the role of gentrification in displacing residents who would otherwise have stable housing. For those at Ala Wai Small Boat Harbor who were able to weather the rate hikes to their liveaboard permits during the state's moratorium on evictions, the harbor simultaneously provides a place of recreation and housing. Our Governor stated that *"as long as we are in a housing crisis, we will treat it like an emergency."* As private developers transform the Ala Wai

Small Boat Harbor into a “Pearl in the Pacific,” *what can we do as a state to ensure those who call the harbor home are not displaced, adding to our housing crisis?* Strategies to protect residents of our harbors should be established before they are forced to abandon their homes, as so many were forced to during the pandemic.

Mahalo for the opportunity to provide testimony in opposition of this bill.