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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N. S. CHANG
Chairperson

Before the House Committee on
WATER & LAND

Thursday, March 16, 2023
10:00 AM

State Capitol, VIA VIDEOCONFERENCE, Conference Room 430

In consideration of
SENATE BILL 94, SENATE DRAFT 2
RELATING TO SPECIAL ACTIVITY PERMITS

Senate Bill 94, Senate Draft 2 proposes to require the Department of Land and Natural Resources (Department) to approve or deny an application for a Special Activity Permit (SAP) for aquatic research within ninety days from the date that it was submitted and appropriates an unspecified amount of funds for the establishment of two full-time equivalent (2.0 FTE) positions within the Division of Aquatic Resources to support the special activity permit review process. **The Department supports this bill, provided that its passage does not replace or adversely impact priorities indicated in the Executive Budget request.**

Pursuant to Section 187A-6, Hawaii Revised Statutes (HRS), the Department issues SAPs to engage in activities otherwise prohibited by law for scientific, educational, management, or propagation purposes. Prior to issuance of an SAP, the Department undertakes various internal and external review processes (e.g. biological, cultural, legal). The time it takes to review each SAP application varies from one week to over 12 months depending on the nature and scope of the proposed activity. An SAP can be reviewed, drafted, and issued within a week if language has already been drafted (e.g. a renewal of an existing SAP), if the proposed activity is simple and prioritized, or if it is for an emergency situation. Permit issuance can take several months if language has never been drafted before, if the review is complicated, or if other permits are prioritized before it.

The Department receives anywhere from 50 to 100 SAP applications each year and has issued 30 to 65 SAPs per year in recent years. Some applications do not result in permit issuance because the proposed activity is determined to not require an SAP. A few applications (less than 5 most years) result in denial of an SAP. In most cases, where the proposed activity is of concern, the Department will work with the applicant to modify the proposed activity to address the Department's concerns. This back and forth amendment process lengthens the time it takes to issue SAPs. Additionally, the Department reviews and provides comments on about 15 to 20 applications for permits to enter the Papahānaumokuākea Marine National Monument and brings about 10 of these permit applications per year to the Board of Land and Natural Resources (BLNR) for approval.

The Department currently has only one staff dedicated to processing SAPs, which includes reviewing applications for new SAPs, processing annual renewals of existing SAPs, drafting original permit and technical guidance language, drafting submittals to the BLNR, drafting HRS Chapter 343 Exemption Notices, reviewing permit reports, compiling and analyzing reported data, and coordinating consultation with staff biologists, cultural consultants, and the Department of the Attorney General. At this time, due to only having one staff person to work on SAPs, there is a back log of applications for new SAPs and renewals of existing SAPs. Establishing two new full-time positions to support the SAP process will make it possible for the Department to process most, if not all, SAP applications within 90 days.

The Department recognizes the hardship on SAP applicants caused by the lengthy SAP review process and has hired a contractor to review our process and make recommendations for improvements. The final report for this two-year project is expected to be completed in September 2024.

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



March 16, 2023

WAL Committee 10am

RE: SB94 SD1; RELATING TO SPECIAL ACTIVITY PERMITS, SUPPORT WITH AMENDMENTS

Dear Chair Ichiyama and Committee Members:

Special Activity Permits (SAPs) grant permission to those engaged in bona fide aquaculture or research, or educational institutions, to conduct activities involving Hawaii's important and culturally significant natural resources *that would otherwise be illegal*. SAPs confer a unique and special privilege and therefore require rigorous review and consideration prior to any permit being issued.

We support SB94 to approve or reject SAP applications within 90 days from receipt of application, with the below essential amendment to require consultation with cultural practitioners from the impacted/affected areas prior to any permit being issued.

Page 1, line 12:

; provided that the department shall **consult with cultural practitioners from affected areas prior to the issuance of any permit and** approve or deny an application for the permit within ninety days from the date that the application was submitted.

In addition we believe **all SAP's should be publicly posted in advance of DAR approval** to allow for public input prior to their issuance. BLNR agendas already are subject to Sunshine laws so SAP review would be publicly noticed.

Thank you for your consideration of our testimony and these important amendments.

Sincerely,

Inga Gibson
On behalf of
For the Fishes
Moana Ohana
Malama Mano

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SB-94-SD-2

Submitted on: 3/16/2023 10:00:34 AM

Testimony for WAL on 3/16/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
james pirtle	Individual	Oppose	Written Testimony Only

Comments:

I opose this bill. The legislature is not lawfully elected thus does not have the authority to enact laws and bills. All actions are treason against the United States of America.