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GOVERNOR

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EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

LUIS P. SALAVERIA
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STATE OF HAWAII
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
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WRITTEN ONLY
TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 1919, H.D. 1

March 28, 2024
9:50 a.m.
Room 211 and Videoconference

RELATING TO STATE BOATING FACILITIES

The Department of Budget and Finance offers comments on this bill.

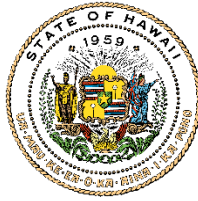
House Bill No. 1919, H.D. 1: 1) establishes a State Boating Facility Lease Pilot Program within the Department of Land and Natural Resources to lease one State small boat harbor for private development, management, maintenance, and operation in a county with a population of less than 900,000; 2) repeals provisions related to the leasing of fast lands and submerged lands of the Ala Wai boat harbor; 3) specifies reporting requirements; and 4) terminates the pilot program on June 30, 2044.

It should be noted that most small boat harbors were developed or improved using general obligation bond funds. Consequently, the pilot program needs to be structured in compliance with restrictions set forth by the Internal Revenue Service on the use of governmental bonds.

Thank you for your consideration of our comments.

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAII | 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
WAYS AND MEANS

Thursday, March 28, 2024
9:50 AM
State Capitol, Conference Room 211

In consideration of
HOUSE BILL 1919, HOUSE DRAFT 1
RELATING TO STATE BOATING FACILITIES

House Bill 1919, House Draft 1 proposes to establish a State boating facility lease pilot program for the Department of Land and Natural Resources (Department) to lease one State small boat harbor for private development, management, maintenance, and operation in a county with a population of less than 900,000. **The Department strongly supports this measure and offers an amendment.**

The Department supports a small boat harbor lease pilot program and notes that there are currently four harbor facilities on O'ahu being managed under a public-private partnership (P3) with the Department's Division of Boating and Ocean Recreation: La Mariana Sailing Club, Ke'ehi Marine Center, Waikīkī Yacht Club, and Hawai'i Yacht Club. The Department believes that the P3 model for management and operation of small boat harbors is the most effective way to manage these facilities. Kewalo Basin Harbor, which is under the jurisdiction of the Hawai'i Community Development Authority (HCDA), is also a prime example of a State-owned harbor under a P3 management model. The Department is grateful to HCDA, which has expressed its willingness to advise and work with the Department to set up a small boat harbor P3 pilot, should this measure become law.

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 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

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

DEAN D. UYENO
ACTING 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

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 to sell any State lands and will only offer leases as part of a public-private partnership model.

The Department recognizes that stakeholders would like an opportunity to be heard during consideration of the location for the pilot program pursuant to this measure. Therefore, the Department recommends that the Board of Land and Natural Resources have the authority to determine the location in order to allow for further public input, which can be accomplished by replacing the language regarding the population restriction for a small boat harbor pilot lease on page 3, lines 2 through 4, with the following:

provided that the small boat harbor selected for the state boating facility lease pilot program shall be determined by the board of land and natural resources at a public meeting held pursuant to chapter 92, Hawaii Revised Statutes.

Mahalo for the opportunity to testify on this measure.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

THE SENATE
KA 'AHA KENEKOA
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2024

COMMITTEE ON WAYS AND MEANS
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Thursday, March 28, 2024, 9:50 AM
Conference Room 211 & Videoconference

Re: Testimony on HB1919, HD1 – RELATING TO STATE BOATING FACILITIES

Chair Dela Cruz, Vice Chair Moriwaki, 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.

UPW **opposes** HB1919, HD1, which establishes a state boating facility lease pilot program within the Department of Land and Natural Resources (“DLNR”) to lease one state small boat harbor for private development, management, maintenance, and operation in a county with a population of less than 900,000. This measure also repeals provisions related to the leasing of fast lands and submerged lands of the Ala Wai boat harbor.

This bill provides the Land Board with the authority to lease the submerged lands of a state boating facility without the need for prior legislative authorization, via a concurrent resolution, by exempting the proposed pilot project from Section 171-60 (a), Hawaii Revised Statutes. UPW understands that this exemption may be necessary for DLNR’s Division of Boating and Ocean Recreation (“DOBOR”) to maintain facilities that have historically proven to be a burden for managing agencies, but we believe that this public-private partnership, and others like it, degrade the working rights of public workers.

While this bill does attempt to preserve the rights the impacted civil service positions, we fear that the success of such a pilot program will lead to the expansion of private-public partnerships for state boating facilities and the eventual loss of these types of positions in the future.

Mahalo for the opportunity to testify on this measure.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kalani Werner', written over a light blue horizontal line.

Kalani Werner
State Director

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HB-1919-HD-1

Submitted on: 3/25/2024 1:52:47 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
John & Rita Shockley	Testifying for Free Access Coalition	Oppose	Written Testimony Only

Comments:

Aloha!

The Free Access Coalition strongly OPPOSES HB1919. The State small boat harbors need to be better managed by the State rather than abdicating management responsibilities to a private entity. At risk is the free public access to the Ala Wai Yacht Harbor area where free public parking for the surfing and boat area will be threatened by money-oriented entities who may install parking meters in the area that has been open and free since before Hawaii became a State.

Please do not pass this draconian bill.

Mahalo for your time.



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 Ways and Means

Testimony by
Hawaii Government Employees Association

March 28, 2024

H.B. 1919, H.D.1 - RELATING TO STATE BOATING FACILITIES


The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of H.B. 1919, H.D.1, which establishes a state boating facility lease pilot program. The proposed bill would allow the Department of Land and Natural Resources to lease one small boat harbor in its entirety and allow a private partner under lease or contract for private development, management, maintenance, and operation.

The proposed privatization language of H.B.1919, H.D.1 is very broad and does not identify which small boat harbor will be impacted; rather it empowers the Board the exclusive authority to negotiate the private development, management, maintenance, and operation. From a policy perspective, we respectfully argue that the Legislature should maintain sole responsibility in determining which public assets should be privatized and should allow the public an opportunity to weigh in.

The measure provides little information of where employees will be reassigned within the division of boating and ocean recreation. Furthermore, as the exclusive representative of the affected civil service employees, any change to working conditions shall be by mutual consent between the employer and the HGEA and all matters affecting employee relations shall be consulted with the HGEA.

If the justification of this measure is to allow private entities to make improvements and improve the state small boat harbor facilities, then it would behoove the Legislature to provide more support to our employees and departments – not allow the Board to contract out these functions.

Thank you for the opportunity to testify in opposition of H.B.1919, H.D.1.

Respectfully submitted,

Randy Perreira
Executive Director



March 26, 2024

Committee On Ways And Means
Senator Donovan M. Dela Cruz, Chair
Senator Sharon Y. Moriwaki, Vice Chair

Testimony in Opposition to HB1919

Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee,

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawaii.

We submitted testimony in opposition to HB1919. We can only assume HB1919 is founded on the same general motivations as 2023's House Bill 1089 that looked to privatize the Ala Wai Boat Harbor.

We urge lawmakers to stop thinking that privatization deals, also referred to as 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.

While HB1919 doesn't explicitly state it seeks to privatize Ala Wai Harbor, and HB1919 as currently written would exclude Ala Wai based on the bill's county-population threshold of less than nine hundred thousand residents, we are wary of any future amendments that could bring the Ala Wai harbor back into HB1919's scope.

Furthermore, it is concerning that HB1919 strikes statutory language that limits the parcels defined as leasable Ala Wai Boat Harbor lands under HRS200-2.6. It is not clear why removing limits on the number of parcels included in the Ala Wai Boat Harbor area is included in this bill, if the Ala Wai Boat Harbor is excluded by county population definitions in the bill.

In our testimony to HB1089 in 2023, we highlighted shortcomings in the "*Modernizing Ocean Recreation Management in Hawaii Strategic Action Plan – 2019*" plan authored in 2019 by DLNR and DOBOR. That plan laid out a rationale for why certain interests wanted to privatize the Ala Wai. Our testimony raised serious concerns about the shortcomings in the arguments made for privatization of Hawaii boat harbors. We stand by our testimony against HB1089 made in 2023.

We urge you to read our testimony on HB1089 in 2023 (attached here as Exhibit 1). Many of our argument made then would still apply now to HB1919_HD1's attempts to privatize publicly owned and operated public boat harbors in 2024.

We urge you to vote against HB 1919.

Thank you for your consideration.

Exhibit 1



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:

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-lanais-small-boat-harbor/>

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

- 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.

HB-1919-HD-1

Submitted on: 3/26/2024 8:57:59 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Nick Croft	Testifying for Explore Kauai Scuba, LLC	Oppose	In Person

Comments:

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Nick Croft from Kauai. I oppose HB1919 HD1. This bill is confusing and mysterious. I have many questions about this bill and it answers none of it. Harbors should remain public for everyone to use. Privatizing will only seperate these small communities. Keep public areas public for everyone to use. Community not segregation.

Mahalo Nui Loa,

Nick Croft

owner/operator, Explore Kauai Scuba

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 Ways and Means
Thursday, March 28, 2024, 9:50 a.m, State Capitol Room 211 & 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-1919-HD-1

Submitted on: 3/25/2024 1:44:58 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

Dear Senators

I am strongly opposed to leasing the Harbors.

How can the public believe in democracy and the preservation of the public trust, when a vague bill such as this bill?

The bill doesn't even say which State harbor is being considered for development first.

I'm glad to see the Ala Wai Small Boat Harbor was taken off this bill but not saying which harbor is being considered is a low blow to 'transparency'. Please do not add it back in at the last minute. Could you take the words Ala Wai Small Boat Harbor out now?

The State Harbors are on public trust land: 'Accretion lands' and as such this land has a special status within the definition of "Public Lands", which need to be managed within the identified purposes for their management as defined within Section 5 of the Admissions Act.

Let's bring this to BALLOT.

Keeping, or losing, full control of these ocean access lands by auction, bid, sale, direct negotiation, or longer-term lease of 'Pilot-study' through a public-private partnership is a matter worthy of a Statewide vote, for all of Hawai'i's residents to determine.

Mahalo Senators for considering my testimony.

Captain Maggie Hallahan

I plan to join the meeting on Zoom.

§200-2.5 Disposition of state boating facility properties. (a) Notwithstanding any law to the contrary, the board may lease fast lands and submerged lands within an existing state boating facility by public auction, a request for proposals, or by direct negotiation pursuant to section

171-59 and chapter 190D, for private development, management, and operation; provided that any lease of fast lands or submerged lands pursuant to a request for proposals shall be subject to section 200-2.6, regardless to which state boating facility the fast or submerged lands are attached.

As used in this section, the term "state boating facility" means a state small boat harbor, launching ramp, offshore mooring, pier, wharf, landing, or any other area under the jurisdiction of the department pursuant to this chapter.

(b) The permissible uses under any lease disposed of under this section shall be consistent with the purpose for which the land was set aside by the governor pursuant to section 171-11. Permissible uses may include any use that will complement or support the ocean-recreation or maritime activities of state boating facilities.

(c) Disposition of public lands of state boating facilities constructed, maintained, and operated in accordance with this chapter shall not exceed a maximum term of sixty-five years.

(d) All revenues due to the State derived from leases of state boating facilities shall be deposited in the boating special fund.

(e) The department shall adopt rules under Chapter 91 to implement this section. [L 2001, c 299, §2; am L 2011, c 197, §4]

Requirement for leases. L 2011, c 197, §8.

An open testimony

(Note: Hawaii Ocean News has published this testimony so that all of Hawaii might be aware of its existence.)

Regarding HB1919 HD1:

DLNR; State Boating Facility Lease Pilot Program

To be heard by WAM committee: on 03-28-24 9:50AM; CR 211 & Videoconference

Strongly OPPOSE this Measure

Testimony submitted by:

Katherine Lindell
Honolulu, Hawaii

Submitted this Monday, March 25, 2024, 1:00pm

Testimony

Any attempt, *under any guise or ruse*, to privatize Hawaii's publicly-owned land is a clear violation of the Supreme Court-inspired caselaw that gave rise to the Public Trust Doctrine.

Further, the whole concept of a "pilot privatization" is an attempt to mislead the public.

"Pilot" implies "trial for the first time". DoBOR's Underwood has pointed out on numerous occasions that there have been other "pilot" privatization programs, like, for example, Kewalo Basin. This latest attempt in HB1919 HD1 is no "pilot" project, and privatizing publicly-owned properties under any ruse is illegal under the Supreme Court-established caselaw represented in the Public Trust Doctrine.

Public lands have been deeded to the public, in perpetuity, and were never intended for private, for-profit, out-of-state corporate control. That a bill like HB1919 HD1 has even been proposed is a slap in the face to our ancestors and to every resident in the state of Hawaii.

This piece of legislation, instigated by DoBOR's administrator, Ed Underwood, attempts to erase the oversight that is so necessary to the legalities encompassed by the Public Trust Doctrine and keeping publicly-owned properties out of the hands of for-profit out-of-state corporations — entities that clearly do not have the best interests of the people of Hawaii in their agenda.

Passing a bill like this would represent a brand new low for our legislature. **The public now knows well that the "Pilot Public/Private Project" subterfuge will NOT benefit anyone except those who will profit from it.**

Each of you, ENOUGH . . . BE PONO and stop pandering to wealthy interests who have no interest in Hawaii's community other than to plunder it.

We strongly OPPOSE this Measure.

Katherine Lindell
Honolulu, Hawaii

HB-1919-HD-1

Submitted on: 3/25/2024 2:29:09 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Ryan Dadds, PA-C	Individual	Oppose	Written Testimony Only

Comments:

I sail, swim and use the free parking at the harbor as part of enjoying life in Hawaii. I have witnessed, what can only be explained as, the intentional decline of the Ala Wai marina over the past decade. In defiance of the Federal Clean Water Act, section 312, DLNR shut down the pump out and fuel stations over ten years ago. It is obvious the neglect and disrepair of the marina is an attempt to justify the privatization of the publicly owned marina. Please look at the beautiful California public marinas for examples on how public marinas should be maintained. Public marinas can be profitable if managed with care and respect for the ocean and public users. I urge you to hire new management and restore the marina to a state of beauty. Keep it public! Mismanagement is not an excuse to privatize.

HB-1919-HD-1

Submitted on: 3/25/2024 5:53:18 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Dale Fergerstrom	Individual	Oppose	Written Testimony Only

Comments:

My name is Dale Fergerstrom and I am a lifelong resident of Hawai'i Island. I oppose this bill for the following reasons.

1- While this bill is much more restrictive than HCR 98 which was very recently deferred by this committee, this bill still authorizes DLNRE Boating to to enter into a very large financial agreement before there is any audit of the Boating division on its management and operational practices. I feel the management problems that are occurring within DLNR Boating should be clearly understood before they are authorized to lease a small boat harbor.

2- Since this bill seems to specify that the pilot leasing program will be conducted on a neighbor island (communities with less than 900,000 people) and is restricted to one harbor, I feel this bill should identify the boat harbor that is being considered for this pilot program. It feels as if there is a specific harbor already in mind. Why doesn't this bill just name it?

3- The manner in which this bill is worded lacks transparency and feels like a railroad job for some special interest group rather than the betterment of DLNR or the Boaters of Hawai'i.

Dale Fergerstrom

PH 808-3450742

HB-1919-HD-1

Submitted on: 3/25/2024 6:52:04 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Audrey Lee	Testifying for Malama Moana	Oppose	Written Testimony Only

Comments:

WE STRONGLY OPPOSE HB1919!

This bill is written as a lease pilot program within the DLNR to lease one state boat harbor for private development, mgmt, maintenance, and operation to a third party entity.

The biggest reason to oppose this bill: 1. This pilot program is just the start of this kind of operation occurring elsewhere on this island and other islands. What kind of vision is being laid out here? What is the intention and how is that intention being carried out? IS THIS AN ATTEMPT TO SELL OCEANFRONT PUBLIC LAND TO PRIVATE ENTITIES? WHY AREN'T MORE BELLS GOING OFF IN OUR LEGISLATORS HEADS? WHO IS ED UNDERWOOD, WHAT IS HE DOING, AND WHY IS ANYONE BACKING THIS REALLY BAD IDEA? DO WE NEED TO HAVE HUGE PROTESTS AND PETITIONS OR A CALL FOR VOTE OF NO CONFIDENCE IN OUR LEGISLATURE?

2. Any entity given this agreement will likely charge for parking at a lot where ocean access has always been free. This is public land and the public need to access the ocean from this location daily for health (swimming, surfing, and other ocean activities) and sustenance (fishing).

Public lands have been deeded to the public, in perpetuity, and were never intended for private, for-profit, or out-of-state corporate control. Any akamai kama'aina knows this and should not let others who may have been corrupted sway them. As legislators, you KNOW what I am talking about. PLEASE USE YOUR POWER FOR GOOD AND OPPOSE HB1919. THANK YOU!

HB-1919-HD-1

Submitted on: 3/25/2024 8:00:40 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

I respectfully OPPOSE HB1919 HD! because...

1. It's overly broad
2. Not in the public interest
3. Has NO checks and balances
4. No local community input
5. Does not solve the problem
6. Will result in more unintended consequences

Lets take a more comprehensive and stratigic look to solve this dilemma by cosidering restructuring DLNR to meet the needs of Hawaii now and into the future. MAHALO, Keone

HB-1919-HD-1

Submitted on: 3/26/2024 4:15:19 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Kristine Chung	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha Chair, Vice-Chair and Finance Committee Members,

I am testifying in OPPOSITION to HB1919. This bill is a rehashing of the Dept. of Boating and Ocean Recreation's (DOBOR) continual attempts to privatize management of the largest public recreational harbor in the State.

This bill will benefit DOBOR in that it seeks to collect money from a private entity of their own choosing. It gives DOBOR absolute authority to select this entity:

by public auction, a request for proposals, or by direct negotiation pursuant to section 171-59 and chapter 190D, for private development, management, and operation.

It is extremely concerning that the Administrator of DOBOR be allowed to solely determine the fate of this cherished public resource, particularly by direct negotiation. As we have seen in other Public/Private Partnerships (PPP) in the State of Hawaii, corruption can easily occur when there is a lack of oversight. Why should DOBOR be exempt from the State regulations regarding Request for Proposals?

By DOBOR's own admission, the Ala Wai Small Boat Harbor (AWSBH) brings in more money than any other facility under their purvue. Despite this, harbor maintenance and management has been lacking for decades. DOBOR continues to be focused on increasing revenue while ignoring persistent issues that daily ocean recreation users and boaters have voiced concerns about.

However, Ineffective management is not a justification for abdicating responsibility. The Division of Boating and Ocean Recreation should have as it's primary purpose to effectively manage State of Hawaii public ocean resources; not to achieve maximum profitability for themselves.

The PPP proposed in HB1919 has been introduced and reintroduced by Ed Underwood and DOBOR since 2019, and has been rejected each time because the value to stakeholders (ocean recreation users) remains murky.

Finally, please ask yourselves why Mr. Underwood is so intent on being allowed to select 'by direct negotiation' a private, for-profit entity to enter into a 20-year contract with, wherein his department will determine their 'effectiveness' for the period of the contract.

It is unconscionable to allow this beloved surfing, fishing, canoeing and boating public resource to be given over to the highest bidder. I ask that you OPPOSE HB1919.

Mahalo for the opportunity to provide testimony in opposition to HB1919.

Kristine Chung

HB-1919-HD-1

Submitted on: 3/26/2024 4:45:10 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Klayton Kubo	Individual	Oppose	Remotely Via Zoom

Comments:

Strongly Oppose

HB-1919-HD-1

Submitted on: 3/26/2024 5:05:35 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
arleen velasco	Testifying for Surfrider Oahu - Chair	Oppose	Remotely Via Zoom

Comments:

I sail, swim and use the free parking at the harbor as part of enjoying life in Hawaii. I have witnessed, what can only be explained as, the intentional decline of the Ala Wai marina over the past decade. In defiance of the Federal Clean Water Act, section 312, DLNR shut down the pump out and fuel stations over ten years ago. It is obvious the neglect and disrepair of the marina is an attempt to justify the privatization of the publicly owned marina. Please look at the beautiful California public marinas for examples on how public marinas should be maintained. Public marinas can be profitable if managed with care and respect for the ocean and public users. I urge you to hire new management and restore the marina to a state of beauty. Keep it public! Mismanagement is not an excuse to privatize.

HB-1919-HD-1

Submitted on: 3/26/2024 5:59:34 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Leina'ala Riela-Enoka	Individual	Oppose	Written Testimony Only

Comments:

I oppose HB1919 and the privatization of our harbor area.

HB-1919-HD-1

Submitted on: 3/26/2024 6:13:07 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Nelson	Individual	Oppose	Written Testimony Only

Comments:

Dear Senators,

I ask that you please vote NO on HB1919 our state boat honors should not be privatized. This harbor privatization bill is dangerous for our Hawaiian water access. I ask you to please side with the public and vote NO. I swim and surf near these harbors and to privatize them will only hurt the people who live and support the land every day.

Jennifer Nelson,

HB-1919-HD-1

Submitted on: 3/26/2024 6:39:08 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Bianca Isaki	Individual	Oppose	Written Testimony Only

Comments:

Aloha Senators:

Please oppose HB1919.

- 1) DOBOR could sell a lease to a harbor with no oversight.
- 2) No plan to involve the public in the design of new rebuilds of the harbors
- 3) No provisions for free or Kama'aina parking
- 4) No provisions to keep boat ramps or slips

HB-1919-HD-1

Submitted on: 3/26/2024 6:50:43 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

STOP HB1919

- 1) DOBOR could sell a lease to a harbor with no oversight.
- 2) No plan to involve the public in the design of new rebuilds of the harbors
- 3) No provisions for free or Kama'aina parking.
- 4) No provisions to keep boat ramps or slips

The DNLR has only proven to be traitors to the boater and surfing community, Over the last decade they have taken from the Ala Wai Small Boat Harbor of Waikiki, the gas dock, the dump station, the laundry mat, the small grocery/supply store, parking slots, the liveaboard status, and those under the grandfather status, they have doubled the fees for liveaboard, in doing so starting in January of 2021, when in the middle of the pandemic the hearing was on UTube, where no outside person could make a testimony. Umderwood has been an embarrassment to the Waikiki boating, surfing and beach community.

Thank You

Sandra Dahl

HB-1919-HD-1

Submitted on: 3/26/2024 7:45:18 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

Dear Ways and Means Committee,

I surf Ala Moana Bowls 3 to 4 times a week and strongly oppose this bill. There's already not enough parking at the Ala Wai Small Boat Harbor; the lot is often filled up at dawn. This is some of the most consistent and accessible surf on the south shore, and the only free parking on the south shore. The original intent of these parking spots was to provide locals with free access to the ocean and surf in the most heavily tourist developed area on the islands. Without free parking, we'll end up parking at Magic Island and paddling across the boat channel to access the surf, which puts us in danger.

Please support people who live here by voting "no" on this bill.

Thank you for your time.

Sincerely,

Crystal

HB-1919-HD-1

Submitted on: 3/26/2024 8:00:35 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Tamra Hayden	Individual	Oppose	Written Testimony Only

Comments:

This is a dangerous bill leading to privititation a of Hawai'i ocean waters and will set a dangerous precedent. It goes against Hawaiian culture. Not allowing all of of access for sports, leisure and cultural events is selfish. I go down to the ocean in Makaha regularly. It is my neighborhood. We have a large population of Native Hawaiians in our community, and I can tell you no one owns the ocean. No one monopolizes the ocean. Our Akua provides food and life from the ocean. Waterman blow the conch shell every single night at sunset. We value the gifts the ocean provides. Native Hawaiians share this belief and the life it provides. If they don't own the ocean who does? Or is this just a haole effort to take more from the people who give and share the aina, the ocean and culture so freely with us all? It is ridiculous to think anyone owns the ocean. Look what has happened since haole began the process of illegal occupation and ownership of the aina. Do not repeat this grave mistake again, an apology will not suffice if this happens.

HB-1919-HD-1

Submitted on: 3/26/2024 8:58:44 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Celeste Yamanaka	Individual	Oppose	Written Testimony Only

Comments:

I oppose bill 1919 HB! Please stop trying to sell off our ocean access to the highest bidder! The local people of Hawaii are already being priced out of our homeland. Access to the ocean along with free parking is one of the few free or low cost activities still available to us. The Ala Wai boat harbor is one of the places in Waikiki that provides us the opportunity to access the ocean without having to pay for parking.

As a surfer I have utilized the public parking at the boat harbor for decades. It is not just a beach or parking lot to us, it's a place of community. My friends and I have taken care of the parking lot because we value having the privilege of free parking. After hurrican Iniki we were there the next day cleaning up the debris and helping to keep the vegetation alive on the island at the beginning of the row of slips. We pick up trash regularly and we care for each other, the ocean and the Aina as a community.

As elected officials, it is your responsibility to do what is best for the people of Hawaii, not to line the pockets of developers. Please do the right thing and stand up for the people of Hawaii. Keep our beach access and parking free for us to enjoy ocean activities. We do not want to see our beaches developed for the tourists to enjoy, they already have Waikiki! We want our children and future generations to be able to enjoy the ocean as we have.

Thank you for your consideration and for digging deep to do the right thing for the people of Hawaii who have elected you to protect their rights and to help us have a better life.

HB-1919-HD-1

Submitted on: 3/26/2024 9:19:17 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
jessie croft	Individual	Oppose	In Person

Comments:

Aloha Chair, Vice Chair, and Members of the Committee on Finance,

My name is Jessie Croft and I oppose HB1919 HD1. Privatizing public harbors will just hand over control to wealthy and likely out of state interests. It's scary what that could mean for recreational users and commercial operators.

Mahalo,

Jessie Croft

HB-1919-HD-1

Submitted on: 3/26/2024 10:03:20 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

If I understand this bill correctly there has not been enough public input as it is written.

Otherwise how could there not be accommodations made for the following points?

- 1) DOBOR could sell a lease to a harbor with no oversight.
- 2) No plan to involve the public in the design of new rebuilds of the harbors
- 3) No provisions for free or Kama'aina parking.
- 4) No provisions to keep boat ramps or slips.

Please talk with the public and amend the bill.or with no oversight.

HB-1919-HD-1

Submitted on: 3/26/2024 10:14:58 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
David ashe	Individual	Oppose	Written Testimony Only

Comments:

Aloha, my name is David Ashe. I strongly oppose bill 1919 as it is written now. This bill gives a green light to developers who wish to privatize the Ala Wai Harbor to generate income which the community will not benefit from.

There is absolutely no language anywhere in HB 1919 that protects the surfing community, indigenous community or anyone else who uses the harbor for their cultural practices, leisure or recreation.

Development is synonymous with limited access for the public in todays world. I'm worried about losing the last free parking area in and around Waikīkī waterfront. I'm worried about another tourists hub full of convertible mustangs and \$15 parking. Make the language in this bill reflect your promise to create an equitable space for everyone. Bake in mandatory community feedback during planning. The community does not need another exclusionary development project.

Mahalo

HB-1919-HD-1

Submitted on: 3/26/2024 10:36:47 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Laura Acasio	Individual	Oppose	Written Testimony Only

Comments:

STRONG OPPOSITION to HB 1919 HD1 which has skipped the subject matter (WTL) public hearing

Dear Honorable Chair Dela Cruz and Members of the Senate Ways and Means Committee,

I am writing to express my *strong opposition to HB 1919 HD1*, which has entirely skipped the hearing of it's subject matter, Water and Land, chaired by Senator Inouye. I urge you to reject this measure at this time and send it back for a proper discussion in the Senate Committee of Water and Land for good lawmaking and constitutional obligation. This measure proposes to grant the Board of Land and Natural Resources the authority to lease state submerged lands at one or more state small boat harbors or boating facilities for private, and possibly, foriegn development.

Additionally, it is imperative that the state uphold its duty to protect the public trust and refrain from privatizing essential resources that countless fisherpeople depend on for their livelihoods and cultural practices. Allowing private development on state submerged lands within small boat harbors or boating facilities would not only undermine the interests of our fishing communities but also jeopardize the integrity of our heritage and ocean access public trust, leaving it vulnerable to extractive buisness models and unjust practices. Please conduct a Senate Investigation and proper audit of DOBOR prior to considering passage of a measure of this matter.

The current state of neglect and underfunding of our harbors is unacceptable and has resulted in dire consequences, particularly on Hawaii Island in Hilo. The emergency situation at Wailoa Small Boat Harbor underscores the ramifications of years of neglect and abdication of duty. This harbor, which serves as a crucial access point to the ocean for communities from Kawaihae to South Point, is now inaccessible due to a sandbar, as well as deplorable and deteriorating infrastructure.

The closure of the Pohoiki Boat Ramp in 2018 further exacerbated the reliance on Wailoa Harbor for ocean access, yet the conditions of the ramp, parking, moorings, dock, and bathrooms remain deplorable. Our fisherpeople and boaters deserve better treatment and immediate solutions to address these pressing issues.

Passing HB 1919 HD1 would only exacerbate the problems our communities are facing, prioritizing private gain over the public good. The State and the Board of Land and Natural Resources have a solemn obligation to safeguard these resources for the benefit of all residents, not for the profit of a select few. It is my understanding that this measure is special legislation to apply to a wealthy Lanai landowner who is from the continent. However, as currently written is could apply to any harbor not on O'ahu. This is particularly concerning for ocean users here in Hilo.

Thank you for considering my testimony on this crucial matter.

Laura Acasio, Hilo

HB-1919-HD-1

Submitted on: 3/27/2024 12:44:36 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Wendy Gibson-Viviani	Individual	Oppose	Written Testimony Only

Comments:

To: COMMITTEE ON WAYS AND MEANS

From: Wendy Gibson-Viviani RN/BSN

RE: HB1919 HD1– in OPPOSITION

Hearing: Thursday, March 28, 2024 at 9:50 AM in Conference Room 211 & Videoconference

Dear Chair Dela Cruz, Vice Chair Moriwaki and Members of the WAM Committee,

My name is Wendy Gibson-Viviani. I have been a resident of Oahu for 30 years and was active in yacht racing for nearly 10 years. Through that, I have been able to enjoy sailing to many of the harbors around Oahu, Lanai, Maui and Kauai. I have many happy memories of times spent at the yacht clubs and visiting friends who lived aboard their boats.

I oppose HB1919 HD1 because I believe that Public-Private Partnerships are generally a bad idea (especially for prisons), and this bill proposes that the state issue these contracts by **public auction**. Won't the State have a duty to evaluate each applicant? That's not clear. One website about PPPs suggests that:

“Consideration needs to be given to whether the private partner has the sufficient capacity, skills, and capability to deliver the project more efficiently than the government. The government, for its part, should have the competence, expertise, and willingness to oversee the project, and should not use PPP’s as a strategy to allow it to abdicate its responsibility. “

I imagine that creating and overseeing PPP projects will require that the state spend quite a bit of money: They will need to hire more attorneys to draft and oversee contracts, need staff to create annual evaluations of whether the private partner has fulfilled their part of the contract or NOT, and then submit these reports to the legislators for review and decision-making.

They will also need to hold public hearings. All very labor-intensive and costly enterprises and don't include what kind of penalties that the private contractor needs to pay if they do not fulfill the contract and how to collect any penalties. In the case of the Honeybee LLC where the state

leased fast lands in the Ala Wai Harbor—the state lost millions of dollars. The lawsuits went on for years.

With the privatization of harbors the likely outcome will be the loss of public access to beaches and for fishing, launching watercraft, or mooring. It is not clear whether those who live-aboard their boats will be allowed to stay or if they will find themselves without a place to live.

The public will have to deal with construction crews-- for years. Local businesses could suffer. And, if contracts don't include requirements to employ Hawaii residents, there may be job losses or reassignment of jobs.

Given all of the risky, labor-intensive proposals and uncertainty in this bill, I ask that you oppose it.

Thank you for the opportunity to share my views on this. The harbors, and especially the Ala Wai Boat Harbor

Wendy Gibson-Viviani RN/BSN

Kailua

HB-1919-HD-1

Submitted on: 3/27/2024 3:44:54 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jonathan Padwe	Individual	Oppose	Written Testimony Only

Comments:

This bill and the current efforts under way which allow for the privatization of the Ala Wai Boat Harbor are not in the public interest. They privilege the tourism economy over local use of the ocean and the island's resources. They furthermore make more difficult the gathering of people in parts of the city and through access to water to form community -- one of the most important parts of life here on Oahu, especially in the present era of division. I say this because as someone who uses the Ala Wai Boat Harbor and the parking there, it has allowed me to have one place in Waikiki that is not exclusively relegated to expensive parking, expensive shops, and tourist-serving businesses. I regularly meet with friends there, and respect and appreciate the community that has grown around the water access at the harbor.

I am shocked to see this bill submitted and advocated for by members of the legislature: access to water is perhaps the single most emblematic feature of life on Oahu. All society on Oahu has revolved around the importance of being able to access the ocean. And yet, somehow, the legislature has taken it upon itself to parcel out our shoreline and the facilities that allow for water access to private operators.

I urge you not to pass this bill.

HB-1919-HD-1

Submitted on: 3/27/2024 6:04:02 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

Dear Committee Members, I would like to incorporate the testimony of Kamaaina Boaters and Katie Thompson as my own. I owned a boat for many years. We should not be privatizing our public facilities. Mahalo. Angela Huntmer, Kahuku Oahu.

HB-1919-HD-1

Submitted on: 3/27/2024 7:19:05 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

Aloha.

The community needs 6 months to further research DOBOR and the unfulfilled 2008 negotiated Ala Wai Small Boat Harbor recreational access agreement.

We must END the Instant Towing policies of DOBOR/DLNR/BLNR. Predatory towing practices are illegal, and DLNR allows it to happen on a daily basis at the Ala Wai Small Boat Harbor.

Between 2007 and 2008, during a state funded mediation process, hundreds of citizens gave their testimony. The Board of Land and Natural Resources member fully addressed this matter in 2008 and all parties agreed to the maintenance (saving) of the 300 free parking stalls in this well documented and established agreement. DOBOR immediately took ‘possession’ of the 249 parking stalls, yet they never delivered on their side of the negotiated agreement! DOBOR in the formal agreement in 2008 (15 years ago) were to:

1. Provide standard parking management. DOBOR agreed to monitor the 6-hour recreational time limit by providing parking attendants who issue citations, parking signage on poles, and ground striping. Provide clear signage and informational actions to prevent workers parking the 300 recreational stalls.

2. Provide an ad hoc committee (Community and DOBOR Staff) to continue to refine parking signage and implement policies to improve and protect this beach access for the public.

Our community has been standing by requesting DOBOR's to fulfill its promises in 2008. It's 2023, how long shall we wait?

Mahalo Board Members for the opportunity to submit testimony on these issues.

Pray for surf!

Aloha.

Adam White

Surfer

Local Small Business Owner

Local Tax Payer

Just say "NO" to HB1919. Further, the whole concept of a "pilot privatization" is an attempt to mislead the public.

"Pilot" implies "trial for the first time". DOBOR's Administrator Underwood has pointed out on numerous occasions that there have been other "pilot" privatization programs, like, for example, Kewalo Basin.

Senator Donovan DelaCruz has stated on his Legislative financial disclosures that he has an interest in DTL, A communications firm. DTL had a contract and did the DTL "Kewalo Harbor Master Plan." Kewalo Basin was developed by Howard Hughes Corporation as a traffic driver for their retail corridor.

In 2017 DTL had a no bid contract with DOBOR for over \$99,000 for an Ala Wai Harbor Master Plan.

Does Sen DelaCruz has been involved with Hawaii small boat harbor privatization attempts. Does Senator DelaCruz need to need to recuse himself for further discussion of this matter due to a financial interest?

When harbors and ramps are leased to private entities there is no provision for Hawaii fishers and boaters.

Ramps and harbors are access to the sea a right of the Hawaii constitution. Fishers feed people. Boats are the tractors of the sea.

Hawaii needs more information on what is going on with small boat harbors. Just say "NO" to HB1919

HB-1919-HD-1

Submitted on: 3/27/2024 9:03:33 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
donn viviani	Individual	Oppose	Written Testimony Only

Comments:

Aloha,

My name is Donn Viviani, I live in Kailua. I oppose this rule. Access to the water, beaches, harbors, etc are an important reason why many of us chose to live here. Giving private entities a role in who is allowed access will always end up in reduced use for residents. Private entities will focus on maximizing their revenues, not maximizing benefit to our citizens. Increasing corporate profit while reducing citizen welfare is a bad trade. Please do not vote for this.

mahalo Donn Viviani

HB-1919-HD-1

Submitted on: 3/27/2024 9:46:16 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Harvey Arkin	Individual	Oppose	Written Testimony Only

Comments:

STOP HB1919

- 1) DOBOR could sell a lease to a harbor with no oversight.
- 2) No plan to involve the public in the design of new rebuilds of the harbors
- 3) No provisions for free or Kama'aina parking.
- 4) No provisions to keep boat ramps or slips

HB-1919-HD-1

Submitted on: 3/27/2024 9:58:41 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Jia Cashon	Individual	Oppose	Written Testimony Only

Comments:

This harbor privatization bill is dangerous for Hawaiian water access and privitization of more land in an already busy area. This area is the place where I surf the most, my favorite spot Pops is not even a consideration since I have to pay so much for parking. I do not want Ala Moana to be the same way. I would consider paying parking if I knew that it was going back into support for our natural resources but for privitization is a hard no.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 1:12:10 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Sienna Streamfellow	Individual	Oppose	Written Testimony Only

Comments:

Aloha WAM Committee,

My name is Sienna Streamfellow. I OPPOSE THIS BILL. I grew up living on a boat in the Ala Wai State Boat Harbor (AWSBH) with my father. I learned to surf out front from the Harbor at the multiple surf spots in the area. I still use this place to access the water and go sailing every week.

We seem to have to fight to protect our public spaces again and again to keep them free for the public to access. This bill is an insult to be hearing and has no protections for our free parking and boat use access. Please stop allowing these bills to be pushed forward and protect our spaces for future generations. Oppose HB1919

Mahalo,

Sienna Streamfellow

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 1:28:25 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Kate Thompson	Testifying for Kama'aina Boaters	Oppose	In Person

Comments:

Dear Senators on the Ways and Means Committee:

Chair Dela Cruz, Vice-Chair Moriwaki, and Senator Members: Aquino, DeCoite, Hashimoto, Inouye, Kanuha, Kidani, Mercado Kim, Lee, Shimabukuro, Wakai, and Fevella.

Please vote No on HB 1919, and prevent this measure from moving forward. Described as 'Relating to the State Boating Facility Lease Pilot Program' and yet DOBOR/DLNR Administrators have not presented enough financial evidence, measurable goals, or details about a 'pilot lease' to earn your support for this measure.

Thank you for the opportunity to submit this testimony. I am a co-founder of Kama'aina Boaters (160 members) and the Director of Surfparking.org. I have moored my sailboat in the Ala Wai Small Boat Harbor for 25 years, and I actively sail at least twice a week. I have visited all the State's Small Boat Harbors, by car, or by sailing to the harbors.

We at Kama'aina Boaters, 160 members of the boating community, are **STRONGLY OPPOSED** to HB1919, as it appears this year, which is a pilot study for privatization, through Public-Private- Partnership, in a State Small Boat Harbor.

Please do not allow a 'gut and replace' in the wording either; such as the sudden addition of the Ala Wai Small Boat Harbor back on the list of 'potential harbors for a pilot' program. (Adding the Ala Wai Boat Harbor back unto the 16 potential harbors, was requested by DOBOR Administrator Ed Underwood during his verbal testimony at the House Judiciary Committee hearing on February 26, 2023.)

This bill is 'too mysterious'.

What is the length of the lease?

Which harbor is being considered?

The basic design for the harbor improvements?

How will the public be included in the process?

How will public access to the harbor and nearby beaches be secured?

How will this pilot project be different from the 'Honey Bee' Privatization project, 2009-2017? That privatization project failed miserably, and the Ala Wai Boat Harbor is still without a functioning Fuel dock, or a sewage pump out station.

There are too many questions yet to be answered about this measure.

There is **STRONG OPPOSITION** to HB 1919 in the boating community because this measure does not include the provision to maintain any public access on public land, DOBOR/DLNR has not demonstrated public engagement, nor have they named the likely harbor to be considered as the first 'pilot project harbor', and the use of fast-lands has not been clearly defined.

DOBOR/DLNR reports the privatized harbors have been 'successful' and yet they are essentially 'closed to the public'.

Ko'Oolina Marina: has not accepted 'overnight guest boats' since the pandemic (2020). Parking near the harbor is limited to tenants of the harbor. Nearby Paid public parking is limited in number. The boat ramp has been essentially unavailable for most of the years Ko'Oolina Marina has been there and now they are charging for trailer parking and have high insurance minimums, effectively excluding many local small power boat owners.

Keehi Marine Center: looks like Fort Knox with huge metal gates at the entrance and members of the public can not launch a personal kayak there, enter to buy a bag of ice, or use the bathroom in the marina. The public can not access parking, paid or unpaid.

Private Yacht Clubs have financial entrance fees that can be a barrier to the general public. Many yacht clubs have an excellent reputation for community access through youth sailing lessons, sailboat racing programs, fishing tournaments, and social events. YET private clubs can have historical roots of membership requirements that were financially-biased and sometimes gender-biased and race-biased. Although huge strides have been made to equalize these biases, in the past 50 years, the financial barriers remain.

This is the reason we need to **KEEP STATE HARBORS ACCESSIBLE TO THE PUBLIC.**

Amendment #1

If the House of Representatives integrated a certain 'set' amount of public access into the bill, there would be more public support for a public-private partnership.

For instance 1) public paid/or free Hawai'i Resident parking, 2) a public use boat ramp at the side of the locked part of the harbor 3) public access mini-mart 4) free public access sewage pump out station.

A minimum of 10% of the total mooring slips in any harbor should be available for visiting boats that can stay 'Up to 5 nights'. The 'Guest Boats' need to prove insurance and would need to prove they already cleared the DOBOR-required vessel safety inspection. The 'Guest Boats' (Hawaii Registered boats, or Out-of-State/foreign recreational boats) can pay for an inspection from the

list of state-approved boat surveyors (the cost is about \$150.00 for this type of inspection and the clearance is good for 2 years).

Amendment #2

Lease only ONE Parcel or Lot at a time. For instance: a Fuel Dock area at the Ala Wai Boat Harbor, a clubhouse area at Nawiliwili Harbor, or a large 'Portion of the Harbor' and the parking near those slips. The 'pilot group' could earn money from that specific portion of the harbor.

Another idea would be to fund with matching State CIP / 'Private Investor' funds, for a 20-35 year (limited, no future) lease.

Only the existing fast-lands and submerged land area should be used for a pilot project 'build'. If the developer wants to skip the Environmental Impact Statement (EIS) it should have the build area clearly defined. A certain amount of fast land disturbance is expected to improve existing docks. Using the land to build condos or retail shopping is entirely different and should require an Environmental Impact Statement.

Thank you for the opportunity to submit testimony. We hope you will continue to preserve the State-owned boat harbors for public access for future generations. Please vote No on measure HB 1919 HD1.

Mahalo,

Kate Thompson

Co-founder of Kama'aina Boaters

Director of surfparking.org (info@surfparking.org)

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 2:41:48 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Eric Rulona	Individual	Oppose	Written Testimony Only

Comments:

I am a boat owner at Ala Wai Small Boat Harbor

I am opposed to the private development of any current state small boat harbors. The state has ignored responsibility to up keep facilities, remove sunken vessels, and repair broken and dangerous moorings. I understand if the state is looking for a way out of meeting those obligations to the public. I undersand those things need funding but the public needs safe and free access to boating and boat ramps. Privatized harbors need oversight to ensure public access and controlled mooring fees to ensure that residents can afford access to these places for generations to come.

For an island nation it seems that the state has completely give up on the younger generation having access boating and connecting with the ocean thru our harbors. If we agree housing is an issue, then available harbors are even more scarce. We are not making any new ones. We must care for and improve the harbors we have. Do not sell to the highest bidder.

There are so many low cost improvements that could be made to the harbors that could also generate revenue for the state. Do not be short sighted and forfit our control of our harbors over to developers focused on profits and not the wellbeing of the boating, fishing, and ocean communities.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 3:13:58 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

I am against the privatization of the harbor. I believe the harbor should remain affordable to the average person on oahu.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 3:14:50 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Collin Lewis	Individual	Oppose	Written Testimony Only

Comments:

The State of Hawaii should remain in control of the Ala Wai Harbor

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 4:45:30 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Deirdre Madrid	Individual	Oppose	Written Testimony Only

Comments:

My name Is Deirdre Madrid. I oppose HB1919. The language in this bill does not benefit kama'aina who use this area for subsistence, cultural practices, or recreation.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 4:45:38 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Eric Oliver	Individual	Oppose	Written Testimony Only

Comments:

DLNR does a great job and I want them to keep managing the harbor.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 6:10:03 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Brian Urquhart	Individual	Oppose	Written Testimony Only

Comments:

Aloha My name is Brian Urquhart and I oppose this bill, privatization of the harbor will put our public use protection in jeopardy. Parking and boat ramp usage is a precious commodity enjoyed by so many of Hawai'i's families. Mahalo for your time!

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 7:56:22 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Haley Greene	Individual	Oppose	Written Testimony Only

Comments:

I'm writing in strong opposition of HB1919. As a frequent user of the Ala Wai Boat Harbor and its nearby beaches, I'm very concerned about the implications of this bill.

The lack of specificity within HB1919 regarding public access to these areas is a huge concern. These spaces are not only essential for recreational activities like surfing, paddling, and boat, but they also serve as valuable community spaces for residents. Any legislation that affects residents should prioritize maintaining public beach access and ensure that the ocean remains accessible to all.

I urge you to vote against HB1919 in its current form. It's so important that any proposed changes to regulations around the Ala Wai Boat Harbor and its surrounding beaches are transparent, inclusive, and protect the interests of the community.

Thank you for the opportunity to submit testimony.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 8:50:45 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Anthony	Individual	Oppose	Written Testimony Only

Comments:

Any attempt, *under any guise or ruse*, to privatize Hawaii's publicly-owned land is a clear violation of the Supreme Court-inspired caselaw that gave rise to the Public Trust Doctrine.

Further, the whole concept of a "pilot privatization" is an attempt to mislead the public. "Pilot" implies "trial for the first time". DoBOR's Underwood has pointed out on numerous occasions that there have been other "pilot" privatization programs, like, for example, Kewalo Basin. This latest attempt in HB1919 HD1 is no "pilot" project, and privatizing publicly-owned properties under any ruse is illegal under the Supreme Court-established caselaw represented in the Public Trust Doctrine.

Public lands have been deeded to the public, in perpetuity, and were never intended for private, for-profit, out-of-state corporate control. That a bill like HB1919 HD1 has even been proposed is a slap in the face to our ancestors and to every resident in the state of Hawaii.

This piece of legislation, instigated by DoBOR's administrator, Ed Underwood, attempts to erase the oversight that is so necessary to the legalities encompassed by the Public Trust Doctrine and keeping publicly-owned properties out of the hands of for-profit out-of-state corporations -- entities that clearly do not have the best interests of the people of Hawaii in their agenda.

Passing a bill like this would represent a brand new low for our legislature. **The public now knows well that the "Pilot Public/Private Project" subterfuge will NOT benefit anyone except those who will profit from it.**

Each of you, ENOUGH . . . BE PONO and stop pandering to wealthy interests who have no interest in Hawaii's community other than to plunder it.

We strongly OPPOSE this Measure.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 8:55:04 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Whitney Alyssa Regan	Individual	Oppose	Written Testimony Only

Comments:

Please do not take away this precious community resource from the hands of the PUBLIC in order to benefit the wealthiest among us. Those of us who are hardworking, devoted, local community members should be able to access these resources rather than pandering to the ultra-wealthy. Thank you.

LATE

HB-1919-HD-1

Submitted on: 3/27/2024 9:34:10 PM

Testimony for WAM on 3/28/2024 9:50:00 AM

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

Comments:

Aloha, my name is Kahealani Enoka and I am a 32 year ocean recreation user of the Ala Wai small boat harbor.

I strongly oppose HB1919 and do not believe that our Ala Wai small boat harbor should be in the hands of any private organization. As a local girl and native Hawaiian, it is so important for myself, my 'ohana, and our next generation of keiki to experience this harbor in the same way I have. I grew up surfing here, fishing, kayaking, diving and spending all my summers and winters with my family and friends here. Being one of the few accessible beaches to surf at with free parking is a privilege that I don't take for granted. I have fought long and hard with my parents and numerous others to protect this lot and I will continue to fight.

Please don't give our Ala Wai small boat harbor away to any private organization. We take care of this special lot for it has taken care of us. **PROTECT OUR ALA WAI SMALL BOAR HARBOR!**

Aloha,

Kahealani

LATE

HB-1919-HD-1

Submitted on: 3/28/2024 7:10:36 AM

Testimony for WAM on 3/28/2024 9:50:00 AM

Submitted By	Organization	Testifier Position	Testify
Mia	Individual	Oppose	Written Testimony Only

Comments:

Please protect Ala Wai Harbor's free public parking and current boat slips. If this property is sold without guarantee of the free parking it will likely become a paid parking location. It need to be protected for our local community. Local families consider this a Haven. Generations growing up, surfing, and sharing this area would be greatly affected by paid parking. Keep it free!