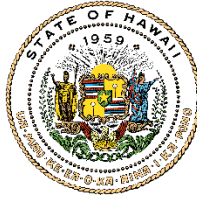


JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

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**STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAII'
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA**

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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

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

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

**Monday, February 12, 2024
1:00 PM**

State Capitol, Conference Room 229 & Videoconference

**In consideration of
SENATE BILL 3168
RELATING TO THE TAKING OF MARINE DEPOSITS**

Senate Bill 3168 proposes to authorize the Department of Land and Natural Resources (Department) to approve permits for research, education, management, or propagation purposes that include the taking of sand, dead coral, coral rubble, rocks, soil, and other marine deposits seaward of the shoreline. **The Department supports this bill.**

The Department regularly receives requests for permits that involve the taking of sand, dead coral, coral rubble, rocks, soil, or other marine deposits from state waters for research, education, management, or propagation purposes. However, the Department is not authorized to approve these permit requests because Hawaii Revised Statutes (HRS) § 171-58.5, does not currently allow for the take of these resources for those purposes. The Department believes that it should have the authority to issue permits for the take of these resources for those purposes, and it supports the amendments to HRS § 171-58.5 that allow for this.

The Department believes that HRS § 171-58.5 was never intended to prevent researchers, educators, or managers from taking marine deposits for scientific research, education, management, or propagation purposes. The legislative history of HRS § 171-58.5 shows that the original intent of the statute was to delineate the jurisdiction of submerged lands and resources between the counties and the State and to clear confusion about overlapping jurisdiction and responsibility for these submerged lands and resources. *See* Act 375, Session Laws of Hawai'i 1988. In 2013, HRS §171-58.5 was amended to allow for the inadvertent taking of small amounts of sand and for the taking of these and other marine deposits for the exercise of

traditional and cultural practices. The bill's introducer in 2013 was concerned with large-scale sand collection that was occurring on O'ahu, which is why the statute's language replaced the allowance of "one gallon per person per day" of marine deposits with the "inadvertent" taking of these materials. This statute was never intended to prevent research, education, management, or propagation activities.

Amending HRS § 171-58.5 to allow for the taking of sand, dead coral, coral rubble, rocks, soil, and other marine deposits for research purposes will allow legitimate research projects in the fields of geology, chemistry, biology, and climate science (among others) to occur without violating Hawai'i state law. Educators, managers, and propagators of marine life would also greatly benefit from the amendments that this bill provides, and we again note that it was never the intent of this statute to prevent these activities.

The Department currently has a process for reviewing and approving Special Activity Permits for the take of marine life pursuant to HRS § 187A-6. The Department intends to use this same process, which includes consultation with environmental and cultural experts, in reviewing applications for permits under HRS § 171-58.5.

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

SB-3168

Submitted on: 2/11/2024 11:15:43 AM

Testimony for WTL on 2/12/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Maki Morinoue	Individual	Oppose	Remotely Via Zoom

Comments:

Aloha

I OPPOSE SB3168!

Marine deposits can not be taken for commercial purposes or personal benefit, and the taking for educational or research purposes needs to be evaluated by the Special Activities Permit process and consulted by ‘Aha Moku, Marine Managed Area co-managers of the resource area.

This bill lacks clarity in the process, gives me a sense of possible loopholes, and reads as a high risk more than being ‘beneficial.’ Unfortunately, many commercial purposes or personal benefits in mining and collection industries outside Hawai’i have used terminologies that do not align with what our community experts find restorative and culturally appropriate.

I do not see any mention of the Special Activities Permit [187A-6](#), [SAP](#), process, or the [Department of Aquatic Resources \(DAR\) clarity in their testimony on HB2478](#) for permitting that aligns with SAP. I STRONGLY RECOMMEND the SAP process must be followed, requiring the Department of Aquatic Resources to consult with ‘Aha Moku, Marine Managed Area co-managers, and our community. We can NOT leave it to DAR as an *OPTIONAL* process to consult with ‘Aha Moku, Marine Managed Area co-managers.

For these reasons that do not outright include ike Hawai’i to align with our Hawai’i State Consitution, I am OPPOSING this bill.

Please do not pass it without further and respectfully clarifying and including the SAP, [187A-6](#) process.

Thank you.

Maki Morinoue

Holualoa, Hawai’i Island

SB-3168

Submitted on: 2/8/2024 8:21:43 PM

Testimony for WTL on 2/12/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Uilani Naipo	Individual	Comments	Written Testimony Only

Comments:

Take of any marine deposits shall **not** be permitted for commercial purposes or personal benefit.

Take for educational or research purposes shall be evaluated and issued by permit pursuant to HRS 187A-6 SAP process and requires the Department to consult with ‘Aha Moku and marine managed area co-managers of resource area.

- U‘ilani Naipo

SB-3168

Submitted on: 2/11/2024 10:01:32 AM

Testimony for WTL on 2/12/2024 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Robert Culbertson	Individual	Comments	Written Testimony Only

Comments:

Aloha Senators!

We recommend that the current Special Activities Permit (SAP) system remain in place as the *primary tool* to regulate any deviations from rules on 'takings'.

As written this bill would appear to provide more blanket coverage for takings than might likely be warranted or fully represented.

There simply is too much at stake with fragile conditions of our reefs currently. The most cautionary approach is best, in our view.

Please defer this bill without amendments that set out further parameters and justifications.

R A Culbertson

member, Big Island Reef Keepers hui

Honokaa