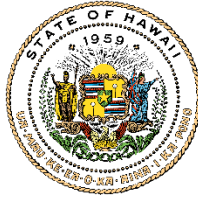


JOSH GREEN, M.D.
GOVERNOR | KE KIA ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA ĀINA



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CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES
ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Testimony of
DAWN N.S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Wednesday, February 5, 2025
1:00 PM

State Capitol, Conference Room 229 & Videoconference

In consideration of
SENATE BILL 457
RELATING TO STATE LANDS

Senate Bill 457 proposes to establish penalties for failure to comply with certain submerged land reclamation regulations. The bill also proposes to add requirements for presently reclaimed land to be disposed of by the Board of Land and Natural Resources, without recourse to public auction, to an abutting owner, by sale, or by lease. Finally, the bill proposes to provide requirements for the Board of Land and Natural Resources to lease state submerged lands and lands beneath tidal waters. **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department believes that the measure is not necessary. The measure appears to address the unauthorized reclamation of submerged lands and the construction of unauthorized shoreline protection structures. Existing statutory provisions already provide the Department with enforcement authority over unauthorized improvements on submerged lands seaward of the shoreline. The Department has pursued conservation district violation enforcement actions against parties that have constructed unauthorized shoreline protection structures on submerged lands seaward of the shoreline, and the Department believes that there are sufficient statutory provisions already in place for the Department to enforce against such violations. Furthermore, in many of the enforcement cases, the violation primarily consists of the construction of unauthorized improvements, not the unauthorized fill or reclamation of submerged lands.

With respect to the proposed lease criteria, the Department notes that current leasing practices already require lessees to assume all liability for the lease premises and responsibility for the repair, maintenance for any improvements, including providing insurance and indemnity to the State. Additionally, the lessee is already required to comply with all federal, state and county laws including land use and permitting requirements, as well as remove improvements at the end of the lease.

Additionally, before the Board of Land and Natural Resources (Board) considers any proposed submerged land lease or easement for a shoreline protection structure, the Office of Conservation and Coastal Lands is consulted to assess whether the structure is authorized or non-conforming, and the impact of structure on coastal resources and public access.

Finally, the Department believes that some of the proposed criteria are vague and subjective. For example, requiring that a lease be “essential to protect water dependent uses, beaches, or existing structures from erosion”, or that any “structure placed on submerged lands shall not create net adverse shoreline sand movement downdrift”, would be difficult to determine objectively as would be open to individual interpretation.

Thank you for the opportunity to testify on this measure.

SB-457

Submitted on: 2/3/2025 10:44:04 PM

Testimony for WTL on 2/5/2025 1:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ted Bohlen	Testifying for Hawaii Reef and Ocean Coalition	Support	Written Testimony Only

Comments:

SUPPORT!