



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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The Thirty-Third Legislature, State of Hawaii
The Senate
Committee on Water and Land

Testimony by
Hawaii Government Employees Association

February 3, 2025

S.B.364 – State Boating Facilities

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of S.B.364, which establishes a state boating facility lease program within the Department of Land and Natural Resources, to be implemented and administered by the Division of Boating and Ocean Recreation. This measure further allows for the Board of Land and Natural Resources to lease the Ala Wai small boat harbor in its entirety, including fast lands and submerged lands within it, by public auction, request for proposals, or direct negotiation for private development, management, and operation.

The proposed privatization language is overly broad and does not provide enough information. We fear that this measure will eventually lead to job loss and/or job displacement for our members that work at the small boat harbors. Additionally, granting the BLNR blanket authority and discretion of having the state boating facility lease program exempt from the legislative authorization is bad policy – the Legislature should maintain sole responsibility in determining which public resources should be privatized and should allow the public an opportunity to weigh in. Data should be available for the positives and negatives of a harbor that is privately managed, for example Kewalo Harbor to allow for a sound policy decision.

Small boat harbors and waterways are valuable public assets, and no private entity should have control over our state's waterways to make a profit. If the justification of this measure is to make a small boat harbor contract more attractive to allow private entities to make improvements to the state small boat harbor facilities, then it would behoove the Legislature to provide more support to our employees and department – not allow the

S.B.364 – State Boating Facilities

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February 3, 2025

Board to contract out this function. Furthermore, we find it troubling that the DOBOR management will quickly jump to privatizing an essential function, which may result in job displacement/loss for our members, due to their inability to execute and provide clear direction on the maintenance of the harbor.

Thank you for the opportunity to testify in opposition of S.B 364.

Respectfully submitted,

A handwritten signature in black ink that reads "Randy Perreira". The signature is written in a cursive, flowing style.

Randy Perreira
Executive Director

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

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



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

P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N. S. CHANG
Chairperson

Before the Senate Committee on
WATER AND LAND

Monday, February 3, 2025
1:06 PM
State Capitol, Conference Room 229

In consideration of
SENATE BILL 364
RELATING TO STATE BOATING FACILITIES

Senate Bill 364 proposes to establish a State Boating Facility Lease Program within the Division of Boating and Ocean Recreation (DOBOR) of the Department of Land and Natural Resources (Department), to be administered by DOBOR; and authorizes the Board of Land and Natural Resources (Board) to lease the Ala Wai Small Boat Harbor (AWSBH) under the program. **The Department strongly supports this measure.**

The Department notes that there are currently four harbor facilities on O'ahu already being managed under a public-private partnership (P3) model: La Mariana Sailing Club, Ke'ehi Marine Center, Waikiki 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 due to the private sector's ability to provide adequate staffing, faster responses for repairs & maintenance, and facility improvements, all while providing lease revenue to the State.

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 help set up the lease, should this measure become law.

The Department notes two common misconceptions among critics to the P3 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 maintaining authority for approval of any proposed fee

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

RYAN K.P. KANAKA'OLE
FIRST DEPUTY

CIARA W.K. KAHAHANE
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

increases; and (2) this measure will not authorize any sale or transfer of State lands and only proposes to allow a lease AWSBH and associated submerged lands in the state to attract private partners who plan to make improvements, provide adequate management, and transform AWSBH into the paragon that it should be as the Gateway to Waikīkī. The Department has no plans to sell any State lands and will only offer a lease as part of a P3 model.

Mahalo for the opportunity to testify on this measure.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

THE SENATE
KA 'AHA KENEKOA

THE THIRTY-THIRD LEGISLATURE
REGULAR SESSION OF 2025

COMMITTEE ON WATER & LAND
Sen. Lorraine Inouye, Chair
Sen. Brandon Elefante, Vice Chair

Monday, February 3, 2024, 1:06 PM
Conference Room 229 & Videoconference

Re: Testimony on SB364 – RELATING TO STATE BOATING FACILITIES

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

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

UPW **strongly opposes** SB364, which establishes a State Boating Facility Lease Program within the Division of Boating and Ocean Recreation of the Department of Land and Natural Resources to be administered by DOBOR. This bill also authorizes the Board of Land and Natural to lease Ala Wai Small Boat Harbor for private development, management, maintenance, and operation and repeals provisions relating to the leasing of fast lands and submerged lands of Ala Wai Boat Harbor. This measure further requires annual reports to the Legislature and repeals the State Boating Facility Lease Program on 6/30/2045.

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). 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.

HEADQUARTERS

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Senate Committee on Water and Land
Senator Lorraine R. Inouye, Chair
Senator Brandon J.C. Elefante, Vice Chair

Testimony in Opposition to SB364 for hearing on 2/3/25

Chair Inouye, Vice Chair Elefante and members of the committee

UNITE HERE Local 5 represents over 10,000 working people in the hotel, foodservice and healthcare industries across Hawaii. We **oppose the intent of SB364** to privatize Ala Wai Boat Harbor via public private partnership.

We have testified in opposition to similar bills in recent years. We submitted testimony to this committee in opposition to HB1089 in 2023. We stand on our previous testimony.

We do not believe, as a matter of principle, that public commons should be privatized. Government services are taxpayer supported public services for everyone to enjoy. It is a mistake to apply profit-seeking criteria to public services and then claim a need for privation to maximize profits. The US military has a “net loss” of hundreds of billions of dollars each year but we don’t talk about privatizing the military because the military is a taxpayer supported service, not a profit generating concern.

Our previous testimony questions the justification used to target the Ala Wai Harbor for privatization. We provided detailed analysis and rebuttal of the arguments made for Ala Wai Harbor privatization in DOBOR and DLNR’s report titled “*Modernizing Ocean Recreation Management in Hawaii Strategic Action Plan – 2019*”. In short, the Ala Wai Harbor is the cash cow and profitable crown jewel of the system, it’s ironic to claim the harbor division is losing money, then try to give away the cash flow from one of its most profitable harbors through privatization.

Please read our previous testimony and detailed analysis of DOBOR and DLNR’s 2019 plan attached here as Exhibit 1.

Thank you for this opportunity to testify.



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.



February 3, 2025

Senate Committee on Water and Land
Hawai'i State Legislature
Via Electronic Transmission

Re: Testimony in OPPOSITION of SB 364, Relating to State Boating Facilities
Hearing: Monday, February 3, 2025, 1:06 PM Conference Room 229

To: The Honorable Chair Inouye, Vice Chair Elefante, and Members of the Committee

Surfrider Foundation Hawai'i Region is strongly OPPOSED to Senate Bill 364 which seeks to establish a State Boating Facility Lease Program within the Division of Boating and Ocean Recreation and authorizes the Board of Land and Natural Resources to lease Ala Wai Small boat harbor.

Surfrider Foundation is a grassroots activist network dedicated to the protection of our oceans, waves, and beaches. We advocate at a local, state, and federal level for beach access. Many Surfrider members on O'ahu use the free public parking for recreational activities including sailing, swimming, surfing, and outrigger canoe paddling.

The Ala Wai Small Boat Harbor is public land and the state is mandated by the Hawai'i Constitution to hold all public natural resources in trust for the benefit of the people.

We oppose this bill for the following reasons:

This bill does not align with public interest and does not involve the public in design of potential rebuild of the harbor. The local community has been opposing privatization of the harbor and a reduction of the free parking numerous times over the last two decades through grassroots movements. As example, in 2023 over 100 ocean users came together to fight for keeping 300 parking spots free of charge and open to the public for recreational use.

There are no provisions for free parking. The public has an inherent right to free ocean access and this bill would potentially prevent free ocean access for all people. The Ala Wai harbor area is the last free parking in Waikiki and removing free access would (1) add a financial barrier to the local community and restrict their ocean access, (2) increase the financial risk of getting towed if the parking is converted to metered parking, and (3) pose a public safety concern with people parking at Magic Island and paddling through the channel to access the surf breaks.

The Ala Wai harbor is a community cultural gathering place for local families, surfers, sailors, paddlers, and swimmers and allows safe access to some of the most consistent and best surf breaks on the south shore. This harbor area is of significant importance to the Native Hawaiian culture and traditions, such as canoe paddling, fishing and surfing. **Under Hawai'i law, the State and its agencies are obligated to preserve and protect the exercise of traditional and customary Native Hawaiian rights. Gathering and access rights are the two most basic examples of traditional and customary practices protected under State law.**

Thank you for your consideration of this testimony in opposition of SB364, submitted on the behalf of the Surfrider Foundation Hawai'i Region.

Sincerely,

Hanna Lilley
Hawai'i Regional Manager
Surfrider Foundation



Hawaii's Thousand Friends

335 Hahani Street #342132 * Kailua, HI 96734 * Phone (808) 262-0682 E-Mail: htf3000@gmail.com

COMMITTEE ON WATER AND LAND

Senator Lorraine R. Inouye, Chair
Senator Brandon J. C. Elefante, Vice Char

SB 364
RELATING TO STATE BOARDING FACILITIES

February 3, 2025

Aloha
Chair Lorraine Inouye
Vice Chair Brandon Elefante
Committee members

Hawaii's Thousand Friends, a non-profit organization is dedicated to ensuring that appropriate planning, management and land use decisions are made that protect the environment, human health and cultural resources and that decision are made in conformity with the law opposes SB 364 which would lease public trust Ala Wai Small Board Harbor and submerged lands for private development.

Although the State routinely gives long-term leases of State property, there is a distinct difference between State lands and State "public trust resources lands" as well as between privatization of services and privatization of land.

Hawaii Supreme court decisions have recognized and explained the public's rights to their natural resources. Privatization of public trust resources appears to violate those rights.

Establishing long-term leasing of public trust lands threatens well established citizen rights such as access to public recreational lands, which under this bill may be seriously impaired.

In 2000 the Hawaii Supreme agreed with the U.S. Court saying that "the people of Hawaii hold the absolute rights to all its navigable waters and the soils under them for their own common use."

The Hawaii Constitution Article XI, Section 1 states "For the benefit of present and future generations, the state and its political subdivision shall conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals, and energy sources and shall promote the development and utilization of these resources in a manner consistent with their conservation..."

This proposal is not consistent with conservation but invites commercial exploitation.

The Hawaii Supreme Court has recognized a distinct public trust encompassing the water resources of the State and has said that the public trust doctrine applies to all these water resources with exception or distinction.

The bills explanation for the need to privatize Ala Wai Small boat harbor is that DOBOR has not received adequate staff or funding to meet all its statutory mandates. Nether a study nor an environmental assessment have been made of the environmental, economic social and cultural impacts of this privatization proposal. How can the legislature make an informed decision without this information?

Exemption from HRS 171-53(c) by passes action by BLNR and “prior approval of the governor ant the prior authorization of the legislature by concurrent resolution...” Thus, eliminating all public involvement in the use of this public trust resource.

It is unclear why SB 364 is seeking an exemption from HRS 171-60, which allows the Department of Land and Natural Resources to lease public lands. Could it be that enacting the provisions in this bill makes privatizing public trust resources more expedient by eliminating DLNRs oversight of the public’s interest in public trust land?

Privatization of this public trust resource without public oversight could lead to lack of affordable vehicle access, exclusionary slip launch ramp fees, and lack of public access.

For the reasons stated above we urge the committee to hold this bill.

LATE

SB-364

Submitted on: 2/2/2025 2:23:06 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Hardy Spoehr	Testifying for The Spoehr Foundation	Oppose	Written Testimony Only

Comments:

Aloha Legislators. thank you for the opportunity to submit testimony in opposition to SB264. It is true that the state management of our harbors in recent years has much to be desired. To simply "privatize" them, however, is not the way forward and perhaps unlawful as currently envisikoned by DLNR. I refer you to other states that have followed thqt model only to find that it is the citizen boart owner who has paid the price - often being frozen out from harbor facilities that they have enjoyed for years. In Hawai`i our harbors are part of our Public trust and as such the state can not arbitrarily give up it responsibility as "trustee" for these lands and water faciilities. Our harbors are precious and have great potential if managed properly and suggest for DLNR and Harbors to look at how our small boat harbors were managed under the Kingdom, Republic, and Territory. Mahalo.

Hardy Spoehr

Sam Monet
 1741 Ala Moana Blvd. #98
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 808 2581611
 Legal live aboard slip 741

Surfer, sailor, native Hawaiian resident of my island home for 79 years

re: Public testimony of Sam Monet in Opposition to SB 364, privatization of Ala Wai Harbor at a public hearing on this MONDAY 02-03-25 1:06PM; Conference Room 229

DLNR administrator Meghan Statts aptly described the Ala Wai Harbor’s \$2million net income as the “States only cash cow”. **Only a fool would sell his or her cash cow. So why would Moriwaki, Dela Cruz, Underwood and others push this foolish plan. I will answer that hereinbelow.**

To begin with, **The billion dollar deferred maintenance figure in the bill is just a *shibai*.** There has never been a professional capital reserve study of the harbor and the best guess is the State’s deferred maintenance and capital improvement **estimates of 2018 totaling \$40.3 million in deferred repairs of**

Revised 10/17/18

**Division of Boating and Ocean Recreation
 Deferred Maintenance and Capital Improvements Projects Statewide
 For Small Boat Harbors Only**

Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Oahu	Ala Wai Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin and entrance channel.	400	4,000	4,400
Oahu	Ala Wai Small Boat Harbor Paving Improvements	Resurfacing and striping of existing access roads and parking areas.	300	3,000	3,300
Oahu	Ala Wai Small Boat Water System Improvements*	Replacement of existing water mains, service laterails, and plumbing fixtures.	200	1,000	1,200
Oahu	Ala Wai Small Boat Harbor Wastewater System Improvements	Replacement of existing gravity sewer lines, pump station, and force mains.	300	4,000	4,300
Oahu	Ala Wai Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	300	3,500	3,800
Oahu	Ala Wai Small Boat Harbor Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	200	2,000	2,200
Oahu	Ala Wai Small Boat Harbor Finger Pier Repairs	Replacement of existing fingers piers and utilities along front row, 400 Row, 500 Row, and portion of 600 Row.	400	6,000	6,400
Oahu	Ala Wai Small Boat Harbor 600 Row Finger Pier Repairs*	Replacement of existing fingers piers and utilities along along a portion of 600 Row.	200	600	800
Oahu	Ala Wai Small Boat Harbor 800 Row Improvements	Replacement of existing concrete dock and tahiti tie moorings including water and electrical service.	300	3,500	3,800
Oahu	Ala Wai Small Boat Harbor Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, solar water heaters, and utilities.	500	5,000	5,500
Oahu	Ala Wai Small Boat Harbor Range Light Replacement*	Replacement of existing entrance channel range lights.	100	200	300
Oahu	Ala Wai Small Boat Harbor Boat Ramp Improvements	Repair to existing boat launch ramp and loading docks.	300	3,200	3,500
Oahu	Ala Wai Small Boat Harbor Aids to Navigation Improvements	Replacement of existing entrance channel markers.	200	600	800

which \$30.2 million has already been spent and work completed in

anticipation of Hughes taking over our cash cow. What a deal for Hughes, they get it cheap and it is fixed up for them.

Beginning in about 2013 former DLNR administrator, pathological liar and sexual predator Ed Underwood began secret meetings with Howard Hughes Corp, their agents and dummy companies in Kakaako to devise an unlawful plan, a conspiracy, to convert the Hawaii public trust asset Ala Wai Small Boat Harbor into a private enterprise managed by Hughes or one of its entities.

Hughes needed to to eliminate live aboard tenants like me, who pay twice as much per boat slip as other tenants at the harbor so their foreign investors would not need to mingle with the common people. In addition Hughes has made it very clear that it plans to **develop a high rise condominium tower on the Ala Wai harbor office site reaping over a billion dollars in profits from the sale of the units to Hughes foreign investors laundering money. This bill would give Hughes carte blanc.**

That new tower, the first ocean front Condo in Waikiki in over 50 years, would block the Ilikai view plane, devaluing those units. The plan also included eliminating free parking for local surfers at the harbor, the last refuge for local taxpayer and voters in Waikiki. **Over the years, surfers, boaters and the general public have opposed privatization and Underwood's attempts to charge surfers to park at the harbor every time it comes up.**

I have been informed that part of the strike settlement with Hilton workers a few weeks ago Hilton is now required to provide employee parking on its own properties thus eliminating that group who have clogged our free for Recreational parking lot for years. The building permits for Hilton's towers all had provisions that it provide employee parking on site, ignored by Hilton management forcing their employees to abuse our parking at Ala Wai.

Underwood was promised a developer unit in the new Hughes condo building, worth millions of dollars. A former office worker in his office confirmed this on her death bed. Underwood immediately closed Ala Wai harbor fuel dock, ice and boat haul out and maintenance facilities thus making it difficult to use and maintain boats in the harbor. Transporting fuel to boats in cans is very dangerous, leading to fires. **Despite complaints about illegal commercial boats in the harbor, Underwood turned a blind eye to illegal commercial tour boats which led to a sinking off Waikiki with tourists on board which he blamed on harbor residents and other boaters.**

In about 2018, Underwood secretly conspired with others in state, terminated all new live aboard permits, while at the same time taking money from applicants, devaluing the public trust asset harbor, reducing income by approximately \$1million per year, also committing fraud. **A devalued harbor made the Hughes deal look better at the Legislature as Underwood lobbied for privatization, lying about material facts in his writings and testimony.**

Hughes, its agents and dummy companies began making campaign contributions and unreported income to Senator Moriwaki, Dela Cruz and his family company DTL and other key public figures to push the privatization plan. **I filed a federal law suit where Moriwaki, like Trump, was granted immunity from prosecution while she remains in office.**

Underwood did his part devaluing the harbor to make the take over easy for Hughes. **Underwood and his the former girl friend, state harbor consultant Anu Hittle authored knowingly false reports to the Legislature about the value and condition of the harbor,** every year urging the Legislature to privatize, opposed by boaters, surfer and general public. Underwood authorized completion of harbor capital improvements to benefit privatization while at the same time reducing income, devaluing the harbor again benefiting the take over entity.

Underwood's crimes knew no end as he further abused the power of his office by targeting me for eviction, retaliation, which failed. DOCARE and the harbor master refused to go along so Underwood tried to handle me himself and failed. I filed a federal lawsuit, pending, Moriwaki and Underwood were granted immunity while still in office but the state remains as a defendant. **Now that Underwood is out he is fair game, new discovery will flush out his ties with Hughes,** which he denies claiming he (a public administrator) keeps NO records of his phone calls or meetings in his office or elsewhere, yet we know that his staff has these records, **discoverable now that he is not the boss there anymore.**

Former AG Claire Connors knew what was going on just like she knew Underwood was abusing the female state employee in his office and did nothing to stop him. I am informed and believe that there is an ongoing federal investigation of Connors' role and Underwood's wrongdoing, that net usually targets bigger fish and **now that Trump is back in, Connors will be gone from the Justice Department, fair game when she has no "immunity".**

Today, with this bill, we find ourselves in the same boat with the same people making the same knowing false claims about the harbor, its status and what benefits Hughes would make for the community when in truth the only people who will benefit are Hughes investors, Underwood, Moriwaki, Dela Cruz and other in our government who over the years have benefited directly or will benefit by giving over our public trust asset, Ala Wai harbor cash cow to business interests whose motive is profit, not public service.

Ala Wai harbor receives federal funds, federal courts have jurisdiction. **The Hawaii Supreme Court has decided many times over the years in favor of the public when state plans to privatize our public trust assets. Recent US Supreme Court decisions have made it easier to bring a jury trial action against government and agencies for overstepping its authority.** We are well funded and intend to make this a federal case if this Legislature fails to heed the laws and do what is right by *ka poe Hawaii nei*, the people of Hawaii, citizens, tax payers and voters who built this harbor and use it with family and friends every day.

I urge you to kill this bill, it is the right thing to do.

A handwritten signature in black ink, appearing to read 'Sh.', with a stylized flourish at the end.

Sam Monet

Sam Monet
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Honolulu, Hawaii 96815
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808 2581611
Legal live aboard slip 741

Surfer, sailor, native Hawaiian resident of my island home for 79 years

re: Memorandum to the public testimony of Sam Monet in Opposition to SB 364, privatization of Ala Wai Harbor at a public hearing on this MONDAY 02-03-25 1:06PM; Conference Room 229

Dear Governor Josh Green and Hawaii State Legislators

**Opposition to SB 364, privatization
Sam Monet, legal live aboard Ala Wai Small Boat Harbor (AWSBH)**

Here we go again, Hughes has spread money around to Senator Sharon Moriwaki, De La Cruz and others to PRIVATIZE Ala Wai for their wealthy ASIAN AND OTHER FOREIGN INVESTORS AND FRIENDS who have been using their condo projects in Kakaako to LAUNDER MONEY.

Again our old buddy, sexual predator former DLNR administrator Ed Underwood who retired last year is spearheading this new bill, so he can get a developers condo in the new High Rise Condo they want to build at the Ala Wai office parking lot in front of the Ilikai.

Introducing a bill, quickly and secretly happens every year, however this time Hughes is named in the bill and there is no strings attached to the "developer" for length of lease or what they can do.

No public hearings, no public input, no warning to any one. Another end run by Moriwaki, De la Cruz and other corrupt politicians that should really be in jail, not our Legislature. Looks like the same old people doing the same old thing.

In addition they are trying to thwart a recent US Supreme Court decision that makes State administrative "rules" toothless and up for challenge in Federal courts by any citizen like me and you or company, like Ilikai.

Oppose this bill by THIS SUNDAY AT 1 PM. file at Capital.Hawaii.gov

Ala Wai Small Boat Harbor is supported by federal funds, jurisdiction the federal courts. AWSBH is a public trust asset which must be preserved for the benefit of the people of Hawaii.

Profit motive for privatization violates the public trust doctrine. Public Water resources and lands have value and profit which can be extracted from its management and use. Private for-profit enterprises are unable to carry out public trust responsibilities without a profit motive and therefore cannot be trusted to manage a public trust asset in the best interest of the public.

AWSBH boat owners like me who are native Hawaiian will join with other boat owners and surrounding property owners to file a federal complaint and for injunctive relief should this bill be enacted and state choose to privatize ASWBH under the authority of this legislation.

Hawaii Supreme Court has held that Article XI, section 1 of the Hawaii Constitution declares, "All public natural resources are held in trust by the State for the benefit of the people." This provision places an affirmative obligation on the State to "conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources" for "the benefit of present and future generations."

In strong language, the Hawaii Supreme Court described the public trust doctrine as "the right of the people to have the waters protected for their use [which] demands adequate provision for traditional and customary Hawaiian rights, wildlife, maintenance of ecological balance and scenic beauty, and the preservation and enhancement of the waters . . ." "For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and all natural resources. All public natural resources are held in trust by the State for the benefit of the people."

The Hawaii public trust doctrine and decisions extend its geographic expanse to virtually all natural resources including tidal, waters that are navigable~in-fact, wetlands, uplands, Beaches, Parks, Highways, burdens land and water rights, property interests, and water rights to ensure protection of its water sources.

The Court has stated: "[T]he State is obligated to protect the reasonable exercise of customarily and traditionally exercised rights of Hawaiians to the extent feasible." ..."**Government officials must heed the Court's characterization that they are trustees responsible for**

managing the water in the public trust and therefore must act accordingly.”

Hawaii allows its citizens to enforce the public trust doctrine through its common, statutory, and constitutional law. Through common law, the **Hawaii Supreme Court has lowered standing barriers “in cases of public interest,”** holding, for instance, that **“a member of the public has standing to sue to enforce the rights of the public even though his injury is not different in kind from the public’s generally, if he can show he has suffered an injury in fact.”**

The right to sue also comes from Hawaii’s constitution, which, in the same article as its declaration of the public trust, states, **“Each person has the right to a clean and healthful environment . . . Any person may enforce this right against any party, public or private”**

I am a native Hawaiian. Special Hawaiian rights are broadly defined in Article 12, Section 7 of the Hawaii Constitution, Hawaii Revised Statutes Section 1-1, and Hawaii Revised Statutes Section 7-1. These provisions commonly refer to the right of Hawaiians to exercise their traditional and customary rights for subsistence, cultural, and religious purposes, subject to the right of the State to regulate such rights.

Privatization, eviction, restricted access of any kind violates my traditional right to fish, dive, surf, pick limo or any other religious and cultural activity at the harbor which I now enjoy.

By recognizing public standing for the public trust doctrine through common law, statute, and the constitution, Hawaii ensures that all voices are and can be heard.

This right to sue includes surrounding property owners like Ilikai who might object to a proposal that would negatively impact their use and enjoyment; allowing them to join with boat owners at AWSBH in our pursuit of justice.

Please kill this bill.

Thank you



Sam Monet

attachment: memo relating to Hawaii Public Trust Doctrine

Division of Boating and Ocean Recreation
Deferred Maintenance and Capital Improvements Projects Statewide
For Small Boat Harbors Only

Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Oahu	Ala Wai Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin and entrance channel.	400	4,000	4,400
Oahu	Ala Wai Small Boat Harbor Paving Improvements	Resurfacing and striping of existing access roads and parking areas.	300	3,000	3,300
Oahu	Ala Wai Small Boat Water System Improvements*	Replacement of existing water mains, service laterails, and plumbing fixtures.	200	1,000	1,200
Oahu	Ala Wai Small Boat Harbor Wastewater System Improvements	Replacement of existing gravity sewer lines, pump station, and force mains.	300	4,000	4,300
Oahu	Ala Wai Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	300	3,500	3,800
Oahu	Ala Wai Small Boat Harbor Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	200	2,000	2,200
Oahu	Ala Wai Small Boat Harbor Finger Pier Repairs	Replacement of existing fingers piers and utilities along front row, 400 Row, 500 Row, and portion of 600 Row.	400	6,000	6,400
Oahu	Ala Wai Small Boat Harbor 600 Row Finger Pier Repairs*	Replacement of existing fingers piers and utilities along along a portion of 600 Row.	200	600	800
Oahu	Ala Wai Small Boat Harbor 800 Row Improvements	Replacement of existing concrete dock and tahiti tie moorings including water and electrical service.	300	3,500	3,800
Oahu	Ala Wai Small Boat Harbor Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, solar water heaters, and utilities.	500	5,000	5,500
Oahu	Ala Wai Small Boat Harbor Range Light Replacement*	Replacement of existing entrance channel range lights.	100	200	300
Oahu	Ala Wai Small Boat Harbor Boat Ramp Improvements	Repair to existing boat launch ramp and loading docks.	300	3,200	3,500
Oahu	Ala Wai Small Boat Harbor Aids to Navigation Improvements	Replacement of existing entrance channel markers.	200	600	800
Oahu	Haleiwa Small Boat Harbor Office & Comfort Station Renovation	Renovation of existing harbor office and comfort station.	200	1,000	1,200
Oahu	Haleiwa Small Boat Harbor Paving and Drainage Improvements	Resurfacing and restriping of existing access roads and parking areas. Reconstruction of boat wash down areas and drainage features.	300	2,000	2,300
Oahu	Haleiwa Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin and entrance channel.	300	2,000	2,300
Oahu	Haleiwa Small Boat Harbor Mauka Comfort Station Improvements	Replacement of existing mauka comfort station with new pre-fabricated building.	200	800	1,000
Oahu	Haleiwa Small Boat Harbor Wastewater System Improvements	Replacement of existing septic systems with new wastewater treatment systems.	250	2,000	2,250
Oahu	Haleiwa Small Boat Harbor Mauka Boat Ramp Improvements	Repair to existing boat launch ramp and loading docks.	300	2,200	2,500
Oahu	Haleiwa Small Boat Harbor Makai Boat Ramp Improvements	Repair to existing boat launch ramp and loading docks.	300	2,200	2,500
Oahu	Haleiwa Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	300	2,000	2,300

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Oahu	Haleiwa Small Boat Harbor Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	300	1,800	2,100
Oahu	Haleiwa Small Boat Harbor Water System Improvements	Replacement of existing water maines, service laterails, and plumbing fixtures.	200	1,800	2,000
Oahu	Haleiwa Small Boat Harbor Finger Pier Repairs	Replacement of existing finger piers, utilities, dock boxes, and related work.	400	4,000	4,400
Oahu	Haleiwa Small Boat Harbor Marginal Wharf Repair	Replacement of existing concrete fixed marginal wharf with new aluminum framed floating dock, including water and electrical service.	400	4,000	4,400
Oahu	Haleiwa Small Boat Harbor Aids to Navigation Improvements	Replacement of existing entrance channel markers.	100	400	500
Oahu	Heeia Kea Small Boat Harbor Wastewater System Improvements*	Construction of a new wastewater treatment system to replace the existing wastewater system.	200	1,000	1,200
Oahu	Heeia Kea Small Boat Harbor Paving Improvements, Phase 3	Resurfacing and striping of existing access roads and parking areas along north mole.	100	500	600
Oahu	Heeia Kea Small Boat Harbor Office Improvements	Replacement of existing harbor office with new office built to current building codes.	300	1,000	1,300
Oahu	Heeia Kea Small Boat Harbor South Mole Apron Repair*	Driving of sheet piles, construction of new pile caps, connection to existing failed concrete apron, replace bull rails, and water line.	200	1,500	1,700
Oahu	Heeia Kea Small Boat Harbor Loading Platform Improvements	Replacement of boater installed loading platforms with new standardized platforms.	200	600	800
Oahu	Heeia Kea Small Boat Harbor North Boat Ramp Improvements	Repair to existing boat launch ramp and loading docks.	350	2,600	2,950
Oahu	Heeia Kea Small Boat Harbor North Mole Fender Repairs	Repair to existing fenders along north mole loading dock.	200	800	1,000
Oahu	Keehi Small Boat Harbor Pier 400 Improvements	New floating dock with finger piers and utilities.	300	2,200	2,500
Oahu	Keehi Small Boat Harbor Pier 500 Improvements	New floating dock with finger piers and utilities.	300	2,200	2,500
Oahu	Keehi Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	300	2,200	2,500
Oahu	Keehi Small Boat Harbor Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	200	1,500	1,700
Oahu	Keehi Small Boat Harbor Offshore Mooring Area Improvements	Replacement of existing offshore moorings.	350	2,000	2,350
Oahu	Keehi Small Boat Harbor Sewage Lift Station Repair	Replacement of existing wastewater pumps and controls.	150	500	650
Oahu	Keehi Small Boat Harbor Boat Ramp and Loading Dock Improvements.	Repair of existing boat ramp, loading pier, and loading dock.	350	2,500	2,850
Oahu	Keehi Small Boat Harbor Paving Improvements, Phase 2*	Grading, construction or new asphalt pavement, striping, drainage improvements, and concrete retaining walls from DOBOR Admin. office to Pier 700.		1,500	1,500
Oahu	Keehi Small Boat Harbor Paving Improvements, Phase 3*	Grading, construction or new asphalt pavement, striping, drainage improvements, and concrete retaining walls from Pier 700 to 900.	100	900	1,000

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Oahu	Keehi Small Boat Harbor Paving Improvements, Phase 4	Resurfacing and restriping of existing trailer parking area.	200	1,000	1,200
Oahu	Waianae Small Boat Harbor Pier B and C Repairs*	Repair/replacement of existing piers including new utilities and gates.	500	5,500	6,000
Oahu	Waianae Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair to existing boat launch ramps and loading docks.	400	4,000	4,400
Oahu	Waianae Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	300	2,500	2,800
Oahu	Waianae Small Boat Harbor Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	200	1,500	1,700
Oahu	Waianae Small Boat Harbor Sewer and Storm Drain Improvements	Replacement of existing gravity sewer lines, storm water lines, and drainage features.	300	4,000	4,300
Oahu	Oahu District Buoy Maintenance	Inspection and maintenance of existing buoy systems under jurisdiction of DOBOR Oahu District.		300	300
Hawaii	Honokohau SBH Wastewater System Improvements	Installation of gravity sewer lines, sewer force mains, and sewage lift stations to pump onsite harbor wastewater to County sewer line on Queen K Hwy.	300	4,000	4,300
Hawaii	Honokohau Small Boat Harbor Improvements Phase 3	Asphalt paving, striping, and drainage improvements for the existing gravel trailer and vehicle parking areas on the north side of the harbor.	250	2,000	2,250
Hawaii	Honokohau Small Boat Harbor Improvements Phase 4	Asphalt paving, striping, and drainage improvements for the existing gravel access road and parking areas on the south side of the harbor.	250	2,000	2,250
Hawaii	Honokohau Small Boat Harbor Fender Repairs	Replace existing fendering along harbor marginal wharf with new plastic lumber fendering.	200	2,000	2,200
Hawaii	Honokohau Small Boat Harbor Electrical, Lighting, and Power Monitoring System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and new power usage monitoring system for all slips in the inner harbor.	300	4,000	4,300
Hawaii	Honokohau Small Boat Harbor Outer Basin Paving Improvements	Paving of existing gravel parking area at outer basin.	150	800	950
Hawaii	Honokohau Small Boat Harbor Slip Structure Evaluation	Evaluation of all permittee installed structures within the harbor to determine improvements needed to bring structures up to current building codes.	500		500
Hawaii	Honokohau Small Boat I and J Pier Improvements	Replacement of existing fixed concrete piers with new floating docks including water and electrical service.	500	4,500	5,000
Hawaii	Honokohau Small Boat Harbor Slip Improvements	Replacement of existing dock boxes, cleats, landings, and vessel access platforms.	300	2,500	2,800
Hawaii	Honokohau Small Boat Harbor Irrigation System Improvements	Replacement and installation of new irrigation systems capable of using reuse water.	300	2,500	2,800
Hawaii	Honokohau Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair of existing makai and mauka boat ramps and installation of new floating dock extensions on existing docks.	400	4,500	4,900
Hawaii	North Kawaihae Small Boat Harbor Breakwater Improvements	Reconstruction of existing north breakwater structure.	300	4,000	4,300

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Hawaii	North Kawaihae Small Boat Harbor Paving and Drainage Improvements*	Paving of existing access road and gravel parking area; drainage improvements and reconstruction of existing boat wash down area.	100	500	600
Hawaii	North Kawaihae Small Boat Harbor Marginal Wharf Repairs	Replace damaged wooden decking and structural members with plastic lumber and aluminum/fiberglass deck grating.	250	1,200	1,450
Hawaii	North Kawaihae Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair of existing boat ramp and loading docks.	300	2,200	2,500
Hawaii	North Kawaihae Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	200	600	800
Hawaii	North Kawaihae Small Boat Harbor Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, and utilities.	150	450	600
Hawaii	North Kawaihae Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin.		600	600
Hawaii	South Kawaihae Small Boat Harbor Floating Dock Electrical and Water System Improvements	Extension of electrical service and water to existing floating dock including installation of new power/water pedestals.	200	1,000	1,200
Hawaii	South Kawaihae Small Boat Harbor Paving Improvements*	Paving of existing gravel trailer parking area.	100	400	500
Hawaii	Keauhou Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair of existing boat ramp and loading docks.	300	2,500	2,800
Hawaii	Keauhou Small Boat Harbor Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, and utilities.	150	450	600
Hawaii	Keauhou Small Boat Harbor Paving Improvements	Resurfacing and restriping of existing trailer parking area.	150	500	650
Hawaii	Wailoa Small Boat Harbor Paving and Drainage Improvements*	Resurfacing and restriping of existing trailer and vehicle parking, drainage improvements, and reconstruction of boat wash down area.	200	1,000	1,200
Hawaii	Wailoa Small Boat Harbor Fender Improvements	Installation of new plastic lumber fendering along marginal wharf.	200	750	950
Hawaii	Wailoa Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair of existing boat ramp and loading docks.	300	2500	2,800
Hawaii	Wailoa Small Boat Harbor Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, and utilities.	150	450	600
Hawaii	Wailoa Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin and entrance channel.	200	1,000	1,200
Hawaii	Wailoa Small Boat Harbor Water System Improvements	Replacement of water mains, service laterails, and plumbing fixtures.	150	650	800
Hawaii	Hawaii District Buoy Maintenance	Inspection and maintenance of existing buoy systems under jurisdiction of DOBOR Hawaii District.		150	150
Kauai	Kikiaola Small Boat Harbor Comfort Station and Site Improvements*	Replace existing comfort station with new larger building and paving improvements.	200	900	1,100
Kauai	Kikiaola Small Boat Harbor Water System Improvements*	Replacement of water mains, service laterails, and plumbing fixtures.	100	400	500

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Deferred Maintenance and Capital Improvements Projects Statewide
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Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Kauai	Kikiaola Small Boat Harbor Wastewater System Improvement*	Construction of new wastewater treatment system to replace existing septic system which cannot meet current demand.	100	300	400
Kauai	Kikiaola Small Boat Harbor Sand Bypassing	Bypassing of sand accumulated on the east side of the harbor and placement on the west side of the harbor.	250	1,500	1,750
Kauai	Kikiaola Small Boat Harbor Loading Dock Repairs	Replacement of existing wooden loading dock with new aluminum framed floating dock and water service.	200	2,300	2,500
Kauai	Kikiaola Small Boat Harbor Boat Ramp Repair	Repair to existing boat ramp and loading docks.	300	2,200	2,500
Kauai	Kikiaola Small Boat Harbor Paving Improvements	Resurfacing and restriping of existing access road and parking areas; new asphalt pavement and striping in existing gravel parking areas.	200	1,000	1,200
Kauai	Kikiaola Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin.	200	1,800	2,000
Kauai	Kikiaola Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	150	500	650
Kauai	Kukuiula Small Boat Harbor Boat Ramp Loading Dock Repair*	Replacement of existing wooden loading dock with new aluminum framed dock and new concrete dock approach.	100	700	800
Kauai	Kukuiula Small Boat Harbor Boat Ramp Repair	Repair to existing boat ramp.	250	1,000	1,250
Kauai	Kukuiula Small Boat Harbor Marginal Wharf Repair	Repair to existing concrete marginal wharf.	250	1,000	1,250
Kauai	Kukuiula Small Boat Harbor Paving and Drainage Improvements	Resurfacing and restriping of existing access road and parking areas, drainage improvements, and reconstruction of boat wash down area.	200	1,000	1,200
Kauai	Nawiliwili Small Boat Harbor Pier Improvements	Construction of new floating finger and main piers to replace existing badly deteriorated concrete fixed piers.	400	4,500	4,900
Kauai	Nawiliwili Small Boat Harbor New Pier 400 Floating Dock	Construction of new Pier 400 floating dock.	300	2,000	2,300
Kauai	Nawiliwili Small Boat Harbor Wastewater Treatment System Improvements	Construction of new wastewater treatment system to replace overloaded, aging system.	200	1,500	1,700
Kauai	Nawiliwili Small Boat Harbor Comfort Station Improvements*	Replace existing comfort station with new larger building.	200	600	800
Kauai	Nawiliwili Small Boat Harbor Paving and Drainage Improvements	Resurfacing and restriping of existing access road and parking areas, drainage improvements, and reconstruction of boat wash down area.	300	2,500	2,800
Kauai	Nawiliwili Small Boat Harbor Marginal Wharf Repair	Repair to existing concrete marginal wharf.	250	1,000	1,250
Kauai	Nawiliwili Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair of existing boat ramp and loading docks.	300	2,200	2,500
Kauai	Nawiliwili Small Boat Harbor Water System Improvements	Replacement of water mains, service laterails, and plumbing fixtures.	150	750	900
Kauai	Nawiliwili Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	200	1,000	1,200
Kauai	Nawiliwili Small Boat Harbor Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	200	800	1,000

Division of Boating and Ocean Recreation
Deferred Maintenance and Capital Improvements Projects Statewide
For Small Boat Harbors Only

Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Kauai	Port Allen Small Boat Harbor Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	200	1,000	1,200
Kauai	Port Allen Small Boat Harbor Power Monitoring Retrofit	Installation of meters for all slips and remote monitoring system to monitor electrical usage.	100	400	500
Kauai	Port Allen Small Boat Harbor Commercial Loading Dock Repair	Repair to existing corroding steel sheet piles and bulkhead at commercial loading dock.	300	1,800	2,100
Kauai	Port Allen Small Boat Harbor Boat Ramp and Loading Dock Repair	Repair to existing boat ramp and loading docks.	300	1,800	2,100
Kauai	Port Allen Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin and entrance channel.	200	1,800	2,000
Kauai	Port Allen Small Boat Harbor Paving and Drainage Improvements	Resurfacing and restriping of existing access road and parking areas, drainage improvements, and reconstruction of boat wash down area.	200	1,000	1,200
Kauai	Port Allen Small Boat Harbor Office Replacement	Replacement of existing shipping container office with new wood framed office.	100	500	600
Kauai	Port Allen Small Boat Harbor Fender Improvements	Installation of new fendering along wall at south side of boat ramp and new cleats.	200	800	1,000
Kauai	Port Allen Small Boat Harbor Water System Improvements	Replacement of water mains, service laterails, and plumbing fixtures.	100	500	600
Kauai	Kauai District Buoy Maintenance	Inspection and maintenance of existing buoy systems under jurisdiction of DOBOR Kauai District.		100	100
Maui	Lahaina Small Boat Harbor Inner Marginal Wharf Improvements*	Replacement of existing fixed concrete marginal wharf with new aluminum framed floating dock with plastic lumber fendering and fiber reinforced plastic decking.	300	2,100	2,400
Maui	Lahaina Small Boat Harbor Inner Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	250	1,500	1,750
Maui	Lahaina Small Boat Harbor Inner Power Monitoring Retrofit	Installation of individual power pedestals and meters for all slips and remote monitoring of electrical usage.	250	1,000	1,250
Maui	Lahaina Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair to existing boat ramp and loading dock.	300	1,500	1,800
Maui	Lahaina Small Boat Harbor Dock Boxes and Railing Repair	Replacement of existing dock boxes along front row and wooden railing around existing pier.	100	300	400
Maui	Lahaina Small Boat Harbor Main Pier Bulkhead Repair	Repair of existing concrete bulkhead and fenders around existing main pier.	200	1,300	1,500
Maui	Lahaina Small Boat Harbor Ferry Pier Improvements*	Construction of new fixed concrete ferry pier with trellis shade structure, sewage pumpout, utilities, paving area fronting existing pier, and new harbor office.	3,300	15,000	18,300
Maui	Lahaina Small Boat Harbor Front Row Improvements	Replace finger piers, ticket booths, bull rails, electrical improvements, and cleats.	300	3,000	3,300
Maui	Lahaina Small Boat Harbor Water System Improvements	Replacement of water mains, service laterails, and plumbing fixtures.	150	450	600
Maui	Lahaina Small Boat Harbor Covered Waiting Area	New covered waiting area on existing pier including lighting.	200	400	600

*Denotes project with existing CIP funding but not yet complete.

**Division of Boating and Ocean Recreation
Deferred Maintenance and Capital Improvements Projects Statewide
For Small Boat Harbors Only**

Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Maui	Maalea Small Boat Harbor South Mole Finger Pier Repair	Replace existing finger piers along sout mole.	300	3,500	3,800
Maui	Maalaea Small Boat Harbor Maintenance Dredging	Maintenance dredging of harbor basin and entrance channel.	200	3,000	3,200
Maui	Maalaea Small Boat Harbor North Marginal Wharf Improvements	Replacement of existing structures and install new aluminum framed floating marginal wharf along north side of harbor including electrical and water service.	400	4,000	4,400
Maui	Maalaea Small Boat Harbor West Marginal Wharf Improvements	Replacement of existing concrete marginal wharf with new aluminum framed floating marginal wharf along west side of harbor including electrical and water service.	300	2,500	2,800
Maui	Maalaea Small Boat Harbor Boat Ramp and Loading Dock Improvements	Repair to existing boat ramp and loading docks.	200	1,500	1,700
Maui	Maalaea Small Boat Harbor North Loading Dock Improvements	Pavement resurfacing, replacement of fendering, concrete repairs, and replacement of fish hoist.	200	800	1,000
Lanai	Manele Small Boat Harbor Boat Ramp Improvements	Repair to existing boat ramp.	300	1,500	1,800
Maui	Maui District Buoy Maintenance	Inspection and maintenance of existing buoy systems under jurisdiction of DOBOR Maui District.	300	1,500	1,800
			33,850	240,800	274,650

*Denotes project with existing CIP funding but not yet complete.

Division of Boating and Ocean Recreation
Deferred Maintenance and Capital Improvements Projects Statewide
For Boat Launching Ramps Only

Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Oahu	Kahana Bay Boat Ramp and Loading Dock Improvements	Repair to existing boat launch ramp and loading docks.	300	2,200	2,500
Oahu	Kahana Bay Boat Ramp Site Improvements	Concrete and asphalt pavement, revetment repair, and drainage improvements.	200	800	1,000
Oahu	Maunalua Bay Boat Ramp Site Improvements*	Resurfacing/restriping of existing access roads and parking areas, installation of new solar powered lighting at the boat wash down area, and erosion repair of revetment.		800	800
Oahu	Maunalua Bay Boat Ramp and Revetment Improvements	Repair of existing boat ramp, loading docks, and rock revetment.	300	2,000	2,300
Oahu	Sand Island Boat Ramp Paving Improvements	Resurfacing and restriping of existing vehicle and trailer parking area.	200	1,000	1,200
Oahu	Sand Island Boat Ramp Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, and utilities.	200	1,200	1,400
Oahu	Sand Island Boat Ramp Improvements	Repair of existing boat ramp and loading docks.	300	2,200	2,500
Kauai	Waikaea Canal Boat Ramp Site Improvements	Paving, drainage improvements, new comfort station, utility improvements, and lighting.	200	2,000	2,200
Kauai	Waikaea Canal Boat Ramp Aids to Navigation Improvements	Replacement of existing entrance channel markers.	200	500	700
Kauai	Waikaea Canal Boat Ramp Maintenance Dredging*	Maintenance dredging of harbor basin and entrance channel.	200	1,700	1,900
Maui	Hana Boat Ramp and Wharf Improvements*	Repair concrete boat ramp approach, new aluminum framed dock connecting existing docks, and rock revetment repair.	200	1,200	1,400
Maui	Kahului Boat Ramp Paving and Drainage Improvements	Resurfacing existing asphalt pavement, striping, and asphalt paving of existing gravel trailer parking area, and drainage improvements at boat wash down area.	250	1,200	1,450
Maui	Kahului Boat Ramp Comfort Station*	Installation of pre-fabricated comfort station.		150	150
Maui	Kahului Boat Ramp Electrical and Lighting System Improvements	Upgrade and replacement of existing electrical lines, conduits, lighting, circuit breakers, and related work.	150	450	600
Maui	Kihei Boat Ramp Repair and Loading Dock	Replaced damaged boat ramp panels and replace existing north loading dock.	300	2,200	2,500
Maui	Kihei Boat Ramp Maintenance Dredging*	Maintenance dredging of harbor basin and entrance channel.	200	800	1,000
Maui	Kihei Boat Ramp Comfort Station Improvements	Renovation of existing comfort stations including new roofing, paint, toilets, urinals, plumbing fixtures, lighting, and utilities.	200	800	1,000
Maui	Kihei Boat Ramp Paving and Drainage Improvements, Phase 2	Resurfacing and restriping of existing trailer and vehicle parking areas. Grading, new asphalt paving, and drainage improvements at existing gravel parking area.	200	1,200	1,400
			3,600	22,400	26,000

*Denotes project with existing CIP funding but not yet complete.

**Division of Boating and Ocean Recreation
Deferred Maintenance and Capital Improvements Projects Statewide
For Wharves and Piers Only**

Island	Project Title	Project Description	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Hawaii	Kailua-Kona Wharf Loading Dock Repairs	Repair to existing wooden loading docks adjacent to loading and along west side of wharf.	400	3,500	3,900
Hawaii	Kailua-Kona Wharf Fender Repairs	Replacement of existing fendering system on east side of wharf.	200	1,200	1,400
Hawaii	Kailua-Kona Wharf Covered Waiting Area	New covered waiting area structure over cruise ship secure area.		600	600
Hawaii	Milolii Landing Loading Dock Improvements	Repair of existing concrete wharf.	200	1,000	1,200
Hawaii	Milolii Landing Paving Improvements	Resurfacing and restriping of existing access road and new asphalt paving in existing gravel parking area.	100	500	600
Kauai	Hanalei Pier Flood Damage Repair	Repair to damage from April 2018 flood including new concrete piles, concrete pier deck, asphalt pavement, and backfilling.	300	1,800	2,100
			1,200	8,600	9,800

*Denotes project with existing CIP funding but not yet complete.

Division of Boating and Ocean Recreation
Deferred Maintenance and Capital Improvements Projects Statewide
Totals by Type of Facility

	Design & Permitting (in \$1,000s)	Construction (in \$1,000s)	TOTAL (in \$1,000s)
Small Boat Harbors	33,850	240,800	274,650
Boat Launch Ramps	3,600	22,400	26,000
Wharves & Piers	1,200	8,600	9,800
TOTAL (in \$1,000s)	38,650	271,800	310,450

HAWAII'S PUBLIC TRUST DOCTRINE

A Summary

1. The public trust doctrine is primarily a state-based doctrine. *Illinois Central Railroad Co. v. Illinois* and subsequent Supreme Court decisions held that the public trust “is neither a creature nor a component of federal law,” but rather a “judicial explication of state . . . law principles.” As such, we must “look to state law to determine the source and scope of public trust principles.”
2. Each state has its own version of the public trust doctrine, with different histories, authorities, and scopes.
3. Hawaii’s public trust doctrine is based in state common law, statutory law, and the state constitution. The Supreme Court of Hawaii first recognized the public trust doctrine in the 1899 case *King v. Oahu Railway & Land Co.* 111 Citing *Illinois Central*, the court held that the government (then, the Republic of Hawaii) had “ownership and trusteeship over submerged lands.” Hawaiian courts continued to recognize the public trust doctrine even as Hawaii transitioned from a republic to a U.S. territory. In an early 20th century case, *Territory of Hawaii v. Kerr*, the Hawaii Supreme Court again upheld the doctrine, allowing the Territory’s attempts to **prevent a private land owner** from constructing a wall on the seashore as part of its “duty of maintaining, managing and caring for the public property thus placed in its possession.”

4. After Hawaii statehood in 1959, its Hawaii Supreme Court further strengthened the State's public trust doctrine. Ignoring a long line of cases upholding private water rights, the court held that all freshwater in the State was "held in trust by the state for the common good of its citizens." A few years later, the court ruled that all lands, even newly lava-formed lands, belonged to the "people of Hawaii, held in public trust by the government for the benefit, use and enjoyment of all the people."
5. In 1978, Hawaii's public trust doctrine was strengthened even more, when the Hawaii Constitution was amended to apply the public trust to **all** natural resources: For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's natural beauty and **all** natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.
6. Although many of the public trust cases since the amendment have been about water rights, the Hawaii Supreme Court recognized the use of the public trust doctrine to protect groundwater, preserve wildlife, and to promote "present and future needs" in land permitting.
7. **Furthermore, in *Waiahole I*, the court stated that, under the amendment, "any balancing between public and private purposes**

begin[s] with a presumption in favor of public use, access, and enjoyment.”

8. Finally, in 1987, Hawaii also recognized the public trust doctrine through its statutory law when it adopted the State Water Code, which specified that “the waters of the State are held for the benefit of the citizens of the State.” Under the Code, permit applicants must show that their water use “is a reasonable-beneficial use” and “is consistent with the public interest.” It lists several “public interest” objectives, including “the protection and procreation of fish and wildlife” and “the maintenance of proper ecological balance and scenic beauty.”
9. Case law interpreting the statute has also held that applicants must not only demonstrate the “social and economic utility” of their proposed use, but “also demonstrate the absence of practicable mitigating measures” because “such a requirement is intrinsic to the public trust . . . the definition of ‘reasonable-beneficial use,’ is an essential part of any balancing between competing interests.”
10. Hawaii allows its citizens to enforce the public trust doctrine through its common, statutory, and constitutional law. Through common law, the **Hawaii Supreme Court has lowered standing barriers “in cases of public interest,” holding, for instance, that “a member of the public has standing to sue to enforce the rights of the public even though his injury is not different in kind from the public’s generally, if he can show he has suffered an injury in fact.”**

11. Although there is no specific statutory enforcement mechanism for the public trust doctrine, Hawaii's Administrative Procedure Act ("APA") permits courts to review and affirm, reverse, or modify agency decisions and orders if they are "in violation of constitutional or statutory provisions." Hawaii's public trust doctrine is found both in its statutory and constitutional law, so parties may be able to challenge agency decisions through the State's APA.
12. The clearest authority, however, comes from Hawaii's constitution, which, in the same article as its declaration of the public trust, states, **"Each person has the right to a clean and healthful environment . . . Any person may enforce this right against any party, public or private . . ."**
13. Hawaii Supreme Court has held that Article XI, section 1 of the Hawaii Constitution declares, "All public natural resources are held in trust by the State for the benefit of the people." This provision places an affirmative obligation on the State to "conserve and protect Hawaii's natural beauty and all natural resources, including land, water, air, minerals and energy sources" for "the benefit of present and future generations." Our constitution also specifies that development or utilization of these natural resources must be "in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State."
14. In strong language, the Hawaii Supreme Court described the public trust doctrine as "the right of the people to have the waters protected

for their use [which] demands adequate provision for traditional and customary Hawaiian rights, wildlife, maintenance of ecological balance and scenic beauty, and the preservation and enhancement of the waters ...”

15. “For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii’s natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people.”
16. The Hawaii Supreme Court further ruled: “It is fundamental that the land held in trust under article XI, section 1 should receive the full protections it is rightfully afforded under our constitution. “[w]e therefore now hold that conservation district lands owned by the State, ...are public resources held in trust for the benefit of the people pursuant to Article XI, Section 1.....**Hawaii’s public lands have long been regarded as subject to the doctrine incorporated by article XI, section 1, having been held in trust for the people’s benefit since the times of the Hawaiian Kingdom.**”
17. The Hawaii public trust doctrine and decisions extend its geographic expanse to virtually all natural resources including tidal, waters that are navigable~in-fact, wetlands, uplands, Beaches, Parks, Highways,

burdens land and water rights, property interests, and water rights to ensure protection of its water sources.

NATIVE HAWAIIAN SPECIAL RIGHTS CONTAINED IN HAWAII LAWS

18. Hawaiian rights are broadly defined in Article 12, Section 7 of the Hawaii Constitution, Hawaii Revised Statutes Section 1-1, and Hawaii Revised Statutes Section 7-1. These provisions commonly refer to the right of Hawaiians to exercise their traditional and customary rights for subsistence, cultural, and religious purposes, subject to the right of the State to regulate such rights.
19. The first and most significant case is our State Supreme Court's 1995 decision in *PASH v. Hawaii County Planning Commission*, 79 Hawaii 425, 903 P.2d 1246 (1995) cert. denied, 517 U.S. 1163 (1996). An essential feature of this holding is the Supreme Court's view that the county planning commission has a duty to inquire as to the exercise of traditional and customary rights practiced by Hawaiians on lands for which county approvals are sought and the impact proposed county action (such as approving a permit allowing development) will have on such practices. The Court stated: "[T]he State is obligated to protect the reasonable exercise of customarily and traditionally exercised rights of Hawaiians to the extent feasible."
20. *PASH* at p. 450 n.43. *PASH* was followed five years later by *Ka Pa'akai O Ka Aina v. Land Use Commission*, 94 Hawaii 31, 7 P.3rd 1068 (2000), a

challenge by Hawaiian practitioners, among others, to the Land Use Commission's (LUC) decision to reclassify over 1000 acres of land in the *ahupua'a* of *Ka'upulehu* on Hawaii island from a Conservation to an Urban District designation. The issue on appeal was whether the LUC had met its duty to protect the traditional and customary practices asserted by native Hawaiians by approving the land reclassification. The court found that the LUC had not fulfilled its statutory duties because it had not reviewed and analyzed the "1) the identity and scope of 'valued cultural, historical, or natural resources' in the petition area, including the extent to which traditional and customary native Hawaiian rights are exercised in the petition area; 2) the extent to which those resources—including traditional and customary native Hawaiian rights—will be affected or impaired by the proposed action; and (3) the feasible action, if any, to be taken by the LUC to reasonably protect native Hawaiian rights if they are found to exist." *Kapa 'akai*, slip op. at p.15.

21. The court vacated the LUC's decision to reclassify the land and remanded the matter for further proceedings. *Kapa 'akai* is also instructive for another reason. Ka'upulehu Development Company (KD) attempted to justify the LUC's decision to reclassify the land by arguing that its Resource Management Plan would be sufficient to assure identification and protection of cultural and religious practices of Hawaiians. The court rejected this delegation in strong terms stating: "This wholesale delegation of responsibility for the

preservation and protection on native Hawaiian rights to KD, a private entity, however, was improper and missed the point. These issues must be addressed before the land is reclassified” and further, “...we hold that, insofar as the LUC allowed KD to direct the manner in which customary and traditional native Hawaiian practices would be preserved and protected by the proposed development - - the LUC failed to satisfy its statutory and 4 constitutional obligations. In delegating its duty to protect native Hawaiian rights, the LUC delegated a non-delegable duty and thereby acted in excess of its authority.” *Kapa ‘akai*, slip op. at p.19.

22. The Hawaii Supreme Court’s *Waiahole* decision articulated the Public Trust Doctrine as the standard by which the State must manage the distribution and allocation of all surface and ground waters. The Court held that the “essential feature of the public trust (is) the right of the people to have the water protected for their use.” *Waiahole* at p. 146.
23. The Hawaii Supreme Court issued its landmark decision in support of the public trust doctrine arguments in the *Waiahole* Ditch Contested Case concluding that the doctrine “**applies to all water resources**” in Hawaii, **above and below the surface of the ground, and that under the doctrine “the state has both the authority and duty to preserve the rights of present and future generations in waters of the state.”**
24. Since the protection of traditional and customary rights of Hawaiians was one of the core values upon which the *Waiahole* decision turned on

interpreting the exercise of traditional and customary rights, gathering and access, other native rights exist as well. The Water Code specifically protects traditional and customary rights of Hawaiians as provided in section 174 C-101 part c and part d as follows: (c) Traditional and customary rights of *ahupua'a* tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778 shall not be abridged or denied by this chapter. Such traditional and customary rights shall include, but not be limited to, the cultivation or propagation of taro on one's own *kuleana* and the gathering of *hihiwai*, *opae*, *o'opu*, *limu*, thatch, ti leaf, *aho* cord, and medicinal plants for subsistence, cultural, and religious purposes. (d) The appurtenant water rights of *kuleana* and taro lands, along with those traditional and customary rights assured in this section, shall not be diminished or extinguished by a failure to apply for or to receive a permit under this chapter.

25. **The Hawaii Supreme Court's *Waiahole* decision articulated the Public Trust Doctrine as the standard by which the State must manage the distribution and allocation of all surface and ground waters.** The Court held that the "essential feature of the public trust (is) the right of the people to have the water protected for their use." *Waiahole* at p. 146.
26. At its core, successful implementation of the public trust doctrine demands a change in the perspective of water managers, planners, and government officials to view themselves not merely as project

managers vested with little discretion expected to accommodate all requests for water but instead for them to ...**“reaffirm . . .that use of the precious water resources of our state must ultimately proceed with due regard for certain enduring public rights.”** *Waiahole*, fn 108.

27. Government officials must heed the Court’s characterization that they are trustees responsible for managing the water in the public trust and therefore must act accordingly.

28. After *PASH*, *Kapa’akai*, and *Waiahole*, governmental entities will be required to not only define the traditional and customary rights affected by any proposed action but also to render findings on the impacts and mitigation necessary to lessen the impact on the exercise of these rights by Hawaiians.

29. Finally in the 2018 Mauna Kea contested case hearings the court held that “[w]e therefore now hold that conservation district lands owned by the State, such as the lands in the summit area of Mauna Kea, are public resources held in trust for the benefit of the people pursuant to Article XI, Section 1.” However, Hawaii’s public lands have long been regarded as subject to the doctrine incorporated by article XI, section 1, having been held in trust for the people’s benefit since the times of the Hawaiian Kingdom. See 136 *Hawaii* at 403–07, 363 P.3d at 251–55 (Pollack, J., concurring).

30. Public Water resources and lands have value and profit which can be extracted from its management and use. Private for-profit

enterprises are unable to carry out public trust responsibilities without a profit motive and therefore cannot be trusted to manage a public trust asset in the best interest of the public.

31. By recognizing public standing for the public trust doctrine through common law, statute, and the constitution, Hawaii ensures that all voices are and can be heard.
32. The Supreme Court ruled that if a contested case is required by law, due process requires a meaningful opportunity, both in reality and in appearance, to be heard before a decision is made.

SB-364

Submitted on: 2/2/2025 10:45:39 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Solomon Kawamae	Individual	Oppose	In Person

Comments:

Aloha,

My name is Solomon Kawamae I am a surfer, avid ocean advocate, waterman, volunteer lifeguard, combat veteran, native hawaiian teacher and practitioner. I strongly oppose SB364 because privatization of public lands and submerged lands is against the purpose of the origins of regulation put in place to protect our environment and rights as tax paying citizens of the State of Hawai‘i. Over development has already become a problem because of private companies buying land to sell out and exploit hawaiian culture without any intentions of building a better economy, restore natural environment and resources, or protect public access areas mainly involving ocean access in areas that are sufficient to recreational or cultural practices. I ask that you please hold SB364 due to negligence of public input and thorough studies involving the concerns of our tax payers. The board is set up for the purpose of protecting our rights and natural resources. DLNR (department of land and natural resources) duty is to protect our natural resources, DLNR officers are overworking due to short staffing and irresponsible business owners who exploit the culture to make money, these business owners who do not aloha aina or do not understand our culture.

DLNR and DOBOR has no right to make decisions or pass bills involving public issues, public access, or ocean recreation without sufficient public hearings or meetings. Neither do they have the right to bypass the board or legislature.

I speak for my ohana, my community, my students, and the future generations of Hawai‘i asking to ‘onipa'a in due diligence and to be pono, do what is right for the people and the future of our environment. Stop ignoring the people and let us stand together to make a better thriving Hawai‘i. Mahalo for your time.

Sincerely, Solomon Kawamae

SB-364

Submitted on: 2/2/2025 11:36:37 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Sienna Streamfellow	Individual	Oppose	In Person

Comments:

I oppose this bill. We must protect our free public spaces and access to a state harbor. We can not allow privatization to push users out of spaces and the possibility of other harbors being privatized. The harbor makes plenty of money to run itself and does not need to have new pwners. Please keep this last free place for locals to be in Waikiki. Mahalo

Dear Senate WTL Chair Inouye, Vice-Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

I strongly OPPOSE SB364, and I urge you to HOLD this bill.

Ai Letter Summary: Kate Thompson, strongly opposes Senate Bill 364, which proposes a long-term public-private partnership to develop the Ala Wai Small Boat Harbor in Honolulu. The author, a long-time harbor user, expresses deep concern that the development will price Hawai'i residents out of accessing boating, surfing, and ocean recreation, contradicting the harbor's historical dedication to public use. Key arguments include the lack of transparency regarding public access preservation, potential encroachment on waterways, inadequate public parking provisions, inadequate public engagement, and concerns about the effectiveness and accountability of current harbor management. Ultimately, the author urges the Senate to reject SB364, citing violations of the Public Trust Doctrine and suggesting alternative management structures for the harbor.

SB364 seeks a Public-Private-Partnership (PPP) long term lease to develop infrastructure projects on State Land at the Ala Wai Small Boat Harbor (SBH) 'in its entirety'.

For me, as a long time boater, with 28 consecutive years of paying a monthly mooring permit fee at the Ala Wai SBH, I have contributed an estimated \$100,000.00 to the Boating Special Fund over these years.

I have several concerns about this bill, SB364. My most significant concern is: pricing Hawai'i residents out of Boating, Surfing and Ocean access in the Waikiki area.

For the past 16 years, a stated goal of the Division of Boating and Ocean Recreation in their Act 100 annual reports has been to 'monetize the State Small Boat harbors'. Yet, this land should actually be 'not for profit', and should be more like the City and County Golf Course, making sports and hobbies accessible to the public, without the need to join a private club. It's important to have a State Boating Facilities that are not private Yacht Clubs.

WHAT PORTION OF THE LAND WILL BE PRESERVED FOR FREE PUBLIC ACCESS?

The length of time for the lease, in SB364, is likely a long term lease of 55 years. One major change in the wording of this measure, from previous legislative proposals, is the inclusion of the fast-lands and submerged lands. This additional wording is quite concerning, because it is not clear if the developer would be allowed to 'build' into an area that is currently a 'waterway' and would such building designs encroach into the current waterways.

It is not clear if an infrastructure build would reduce public access to the harbor for boat owners/crew, or access to the popular public beach area named Duke Kahana'moku Beach (near the lagoon, not the statue), and famous surf sites of Bowls and Rock Piles, or the famous outrigger canoe paddling group Anuenue and the international outrigger race finish site. The Duke Kahanamoku Lagoon (Hilton Lagoon is not the legal name), and Duke Kahanamoku Beach is a family beach area where many of the children (keiki) of Hawaii residents learn to swim.

PARKING IS IMPORTANT BECAUSE YOU CAN'T TAKE YOUR SURFBOARD ON THE BUS.

As a founder of surfparking.org and the work of many legislators who voted to preserve ocean access in this area in Hawaii State Legislative, when Senator Inouye and Representative Perruso initiated in **January 2023** **measures SB1034/ HB1189**, to secure the State promised 300 free public parking stalls of the 1000 harbor parking stalls, for free ocean access for future generations.

Introduced January 2023: SB1034 SD1/HB1189

Measure Title:

RELATING TO PUBLIC PARKING AT ALA WAI BOAT HARBOR.

Report Title: Ala Wai Boat Harbor; Public Parking; Free Stalls

Description: Requires the maintenance of at least three hundred parking stalls at Ala Wai Boat Harbor at no cost for recreational ocean access and

*for the practice of traditional and customary Native Hawaiian rights.
Effective 7/1/2050. (SD1)*

THIS LAND HAS BEEN PRESERVED FOR MANY GENERATIONS,
PLEASE, DON'T LOOSE IT ON YOUR SHIFT

This harbor and beach access land at the edge of Waikiki beach was 'saved' for public recreational and ocean access during the Statehood era, of 1957-1958 in a Executive Order, No. 1795, and this Exc. Order number is seen of all land use permits for the area.

Prior to that, these lands were part of the state Land Trust to preserve these lands for public access as far back as the 'Great Mahele' of 1848. Then during World War II, some of this land was used by the Government, and later private individuals and corporations such as Kaiser (Foundation) and Hobron Trust donated land to create a protected State Conservation land zone, including the public parking lot area which has a 'no build' reserve to preserve the view plane to Diamond Head and public beach access.

The Department of Hawaiian Home Lands (DHHL) does NOT receive a portion of the income from the Ala Wai SBH.

Trust Land Status:

Section 5(b) lands of the Hawaii Admission Act

Submerged lands have special protections: (i) The Submerged Lands Act of 1953 (Public Law 31, Eighty-third Congress, first session; 67 Stat. 29) and the Outer Continental Shelf Lands Act of 1953 (Public Law 212, Eighty-third Congress, first session, 67 Stat. 462) shall be applicable to the State of Hawaii, and the said State shall have the same rights as do existing States thereunder.

Lands protected for public use by the 1958 Executive Order No. 1795

*State of Hawaii Department of Planning and Permitting: Tax Key Map
2-3-037.012*

Land Owner listed as the State of Hawaii Department of Land and Natural Resources, but NOT specifically the Division of Boating and Ocean Recreation.

Leasing this land is likely a violation of the Public Trust Doctrine, Section 5 (b)

MOVE THE MANAGEMENT OF THIS HARBOR TO A DIFFERENT STATE AGENCY, DEPARTMENT OR DIVISION

As Legislators, you can move this land management to City and County, or Department of Transportations: Harbors Division, the Parking should go to HPD or DAGS (General Services).

The Division of Boating and Ocean Recreation (DOBOR) has admitted that they can not manage all of the State Small Boat Harbors. Before the Legislature gives permission for a long term lease to Private-Corporate Developers, we should give another State Division or State Department a chance. We need marine engineers to rebuild the docks and boating facilities such as a fuel dock, which the AWSBH has not had for 15 years.

The Division of Boating's goal has backfired with the Honey Bee LLC contract from 2008-2014; this corporation went bankrupt (partly due to the expense to build a boat haul out facility), and Honey Bee LLC still owes the State \$700,000.00 dollars.

Many of the Harbor users: Boaters, Surfers, Outrigger paddlers and families are interested in securing the free public parking. The most recent Request for proposals has wording, gives the Developer the opportunity to influence the amount of free parking, see attached.

Senators please vote to HOLD SB364, the measure does not detail public interest protection and does not merit your support due to these points:

1. Public meetings have NOT been held. In the DOBOR Division Report required for ACT 100, DOBOR states there have been having 'working group meetings', but no one knows who makes up this group and when they have met.

2. The Ala Wai SBH masterplan has NOT been presented to BLNR members. No design plan has been presented to BLNR members for a new building, even though Board members have requested this type of presentation.
3. The Parking management contract is not public protecting. No state parking enforcement is being done. In 2022, Chair Case told the legislature that only DOCARE officers should issue situations, or parking fines, in State Boat Harbors, but DOCARE officers had not been issuing tickets for years.
4. Chair Chang has not assigned DOCARE officers to issue parking tickets in State Boat Harbors. The first and only financial penalty for minor parking violations is TOWING.
5. During the first 9 month period of 2023, 1553 vehicles were towed, from AWSBH, and only 7 parking tickets were issued by DOCARE officers (for the entire year of 2023).
6. Parking enforcement is being done by tow truck drivers, since towing is the first and only financial penalty for minor parking violations. None of the towing money goes back to the State and the DLNR refuses to require monthly or quarterly towing records as part of the parking and towing contracts. DOBOR/DLNR refuses to require towing records, when the public has requested this during several BLNR meetings. 'Plausible Deniability'
7. Since the Day-to-Day parking enforcement has moved from DOBOR/DLNR to the Parking and Towing permittee's, then DLNR should have an even higher standard of oversight and record keeping, especially since the BOARD has had to spend several BLNR meetings listening to the public concerns about the poor parking signage, difficult payment methods, no Kama'aina parking discount, and 'Instant Towing' for minor parking violations.
8. Parking at Recreational State Boat Harbors is important to the people of Hawai'i.

Attached: the wording of the previous RFP for AWSBH and its parking.

Upon selection by the committee, the successful Applicant and its proposal must be approved by the Board at a board meeting open to the public. Should the Board approve the selected Applicant and proposal, the selected Applicant and DLNR will commence exclusive negotiations of a development agreement and proposed lease for the Subject Property with the approved Applicant.

Accommodation Requirements: The Developer shall provide office space and related utilities for harbor management staff. The square footage of the office space shall be equal to or greater than the current harbor office unless otherwise agreed to by the Department. The Developer shall provide storage space for miscellaneous harbor materials that is at least one thousand (1,000) square feet. The Developer shall provide a minimum of ten (10) parking stalls to be used by harbor management staff and associated vehicle parking at no charge. This requirement may be subject to change should the Department receive the necessary approvals from the Hawaii State Legislature to lease submerged lands that include the slips and mooring spaces within the harbor. **The Developer shall follow the existing parking plan approved by the Board of Land and Natural Resources (Board) that provides for a minimum of three hundred (300) free public parking stalls, for a minimum of three hundred twelve (312) permit parking stalls for harbor tenants with valid mooring permits, and for a minimum of three hundred twenty-nine (329) paid parking stalls according to approved parking rates. The current parking plan is subject to change depending on the type and configuration of the new development project. See Exhibit A-2 for the existing parking plan. Any changes to this parking plan shall be approved by the Board.** Access for State Department of Transportation (DOT) personnel to inspect the lower footings of Ala Wai Canal bridge and State personnel to inspect waste catchment areas near the same location also needs to be accommodated.

Total 941
parking
stalls



Character of Use: The Subject Property may include any use(s) allowed under the Hawaii Revised Statutes, City and County of the Honolulu Zoning Code, Special Management Area Ordinances for the Subject Property, the Waikiki Special Design District and as provided in SLH 2011 Act 197, using the *Ala Wai Small Boat Harbor Vision Report* as guidance.

PROPOSED DEVELOPMENT AGREEMENT:

The selected Applicant (aka Developer) may need to undertake various predevelopment activities before a lease can be issued and construction can commence i.e., due diligence; comply with HRS Chapter 343 requirements and county permitting and as provided in SLH 2011, Act 197.

Thank you for the opportunity to testify in writing and in person at WTL Senate Hearing, Feb. 3, 2025. I am available for questions and I would be happy to meet with you for further discussions.

Kate Thompson R.N., MPH

Co-founder of surfparking.org, 808-383-3334

SB-364

Submitted on: 2/1/2025 4:24:25 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Karen Boyer	Individual	Oppose	In Person

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator Committee Members Chang, McKelvey, and DeCorte:

Please ‘Hold’ SB364

Although DLNR Chair Chang has talked about the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor during DLNR Chair Chang’s tenure as Chairperson. There were two DLNR ‘listening sessions’ on Oahu, Dec 12 (Windward) and 13, 2023 however few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and poor advertising and signage.

As reported in ACT 100, 2025 Division reports, allegedly there has been a ‘working group’ regarding a public-private-partnership (PPP) for the Ala Wai Small Boat Harbor. However, no one I have spoken to knows about or has seen meeting announcements, an agenda or minutes for a working group. The harbor users get to choose a community member to represent us at such meetings. We ask the Senate Water and Land Committee to mandate that the DOBOR/DLNR show proof of community input for the Request for Proposal (RFP), or harbor development drawings.

Please HOLD this measure and require DOBOR/DLNR to resume regular public meetings.

Along with family and ocean recreation peers, suggest the following:

1. Hold three open public meetings about this PPP: two in person at a public school campus, and one on Zoom
1. **Clearly state the minimum amount of free recreational parking** and Kama’aina rate parking BEFORE the RFP goes to BLNR for approval and publication
2. Clearly state that a boat ramp is required and that set amount of boat ramp trailer parking, at low or no cost.
3. Clearly state the number of slips that will remain (699-plus- now) and the commercial versus recreational slips to prevent ‘Creeping Commercialism’.
4. Any use of submerged lands must be approved by the legislature, not BLNR.
5. Maximum time for the lease to be set by the Legislature at 30 years. Do not allow a 65-year lease.

6. Although there is still a need for a Master Plan, the RFP's should be smaller and develop "ONE LOT AT A TIME", for instance the former fuel dock area first, then the larger lot near the Prince Waikiki, which is the former 'Haul Out' site.
7. Do not NOT lease the harbor to a single corporate entity.
8. Making specific and detailed contracts that secure public protections is crucial. There are examples of failed enforcement of PPP contracts, such as the bathrooms Hilton Hawaiian Village was supposed to have available on Duke Kahanamoku Road. Providing this amenity was a major reason the State gave the Hilton significant land area on the road. To the dismay of the public, the bathrooms were built but have not been made available for public use.

Respectfully, Karen Boyer

LATE

SB-364

Submitted on: 2/2/2025 2:56:47 PM
Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Stop this Bill! Please use your wisdom, courage, and compassion for the important citizens of Hawaii's people to have free access to an open area and water park such as given to the people in 1958 as recreation-only area.

Please 'Hold' SB364

Although DLNR Chair Chang has discussed the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor, during DLNR Chair Chang's tenure as Chairperson. (Note: there were two DLNR 'listening sessions' on Oahu, Dec 12 (Windward) and 13, 2023 but few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and it was poorly advertised.

As reported in ACT 100, 2025 Division reports, allegedly there has been a 'working group' regarding a public-private-partnership (PPP) for the Ala Wai Small Boat Harbor. However, I or anyone I have spoken to knows about or has seen meeting announcements, agenda or minutes for a working group. The harbor users get to choose a community member to represent us at such meetings. We ask the Senate Water and Land Committee to ask the DOBOR/DLNR to show proof of community input for the Request for Proposal (RFP), or harbor development drawings.

Please HOLD this measure and require DOBOR/DLNR to resume regular public meetings.

I suggest, along with family and ocean recreation peers:

- 1. Three open public meetings about this PPP: two in person at a public school campus, and one on Zoom**
- 1. Clearly state the minimum amount of free recreational parking and Kama'aina rate parking BEFORE the RFP goes to BLNR for approval and publication**
- 2. Clearly state that a boat ramp is required and that set amount of boat ramp trailer parking, at low or no cost.**

3. **Clearly state the number of slips that will remain (699-plus-plus now) and the commercial versus recreational slips. (to prevent 'Creeping Commercialism'.)**
4. **Any use of submerged lands must be approved by the legislature, not BLNR.**
5. **Maximum time for the lease be set by the Legislature, we recommend 30 years. Do not allow a 65 year lease.**
6. **Although there is still a need for a Master Plan, the RFP's should be smaller and develop "ONE LOT AT A TIME", for instance the former fuel dock area first, then the larger lot near the Prince Waikiki, which is the former 'Haul Out' site.**
7. **Do not NOT lease the harbor to a single corporate entity.**
8. **Making specific and detailed contracts that secure the public protections is crucial. There are examples of failed enforcement of PPP contracts, such as the bathrooms Hilton Hawaiian Village was supposed to have available on Duke Kahanamoku Road. Providing this amenity was a major reason the State gave the Hilton significant land area on the road. Much to the dismay of the public, the bathrooms were built but the bathrooms have not been made available for public use.**

LATE

SB-364

Submitted on: 2/2/2025 7:36:55 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Tina Y Parker	Individual	Oppose	In Person

Comments:

I am submitting this testimony in strong opposition to SB 364 and HB 210, which would allow the Board of Land and Natural Resources to lease Ala Wai Small Boat Harbor for private development, management, maintenance, and operation. Year after year, we are forced to stand here and fight for what should already be protected—our ocean access, our public spaces, and our communities. Enough is enough.

The people of O‘ahu have already been pushed out of nearly every recreational space on this side of the island. We are only welcome if we are working—staffing the hotels, restaurants, and retail stores built for someone else. We have been priced out, fenced out, and shut out. And now, yet again, we are being asked to justify why we should be allowed to exist in our own home.

Seventeen years ago, when the number of free parking spaces at the Ala Wai Small Boat Harbor was slashed from 549 to 300, we were told it was a necessary tradeoff—the revenue from the newly paid lots would sustain those remaining 300 free spaces. But now, because those paid lots have proven profitable, you see Ala Wai as nothing more than another business opportunity.

And if these bills pass—if private developers eliminate all free parking at the Ala Wai Small Boat Harbor—where does it end? What’s next? Magic Island? Diamond Head? Sandys? Makapu‘u? If we allow our public spaces to be reduced to dollars and cents rather than places of community, culture, and ‘ohana, we all lose.

We demand that you protect our right to this space. Maintain at least 300 free public parking stalls for ocean access and the practice of traditional and customary Native Hawaiian rights. This is where we gather. This is where we celebrate life and honor those who have passed. This is where we fish, swim, surf, and watch the sun set over another beautiful day in Hawai‘i. This is our home. And we are not going anywhere.

SB-364

Submitted on: 1/31/2025 12:21:47 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

Please amend or oppose SB364, which allows DOBOR to lease the entirety of the Ala Wai boat harbor and not just the fast/ submerged lands. If such a leasing program is initiated, there should be more specificity to ensure that any such lease is in the public interest.

Bianca Isaki

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

**Testimony Requesting Amendment of SB 364
Relating to State Boating Facilities**

Submitted to Senate Committee on Water and Lands
Monday, February 3, 2025, 1:06 PM, State Capitol Room 229 & Videoconference Hearing

Please amend SB 364 to require that:

Any lease of fast lands and submerged lands of Ala Wai Small Boat Harbor shall provide for the maintenance of at least three hundred public parking stalls at no cost to users 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 77. I have parked at Ala Wai Harbor for access to Waikiki Beach and surf spots for 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.

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. Public parking lots which Hawaii residents use for recreational ocean access should be managed like a kind of park facility. They should NOT be managed like pay toilets maintained with user fees.

SB-364

Submitted on: 2/1/2025 12:58:43 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Heidi Bornhorst	Individual	Oppose	Written Testimony Only

Comments:

As tax paying, working, Voting citizens we oppose fees to park at our surf spots. We Keep telling you this! Free parking keeps us all happy and healthy and surfing, swimming snorkeling enjoying the OCEAN for Free. We dont need the hassle expense or stress of paying for parking. we have been promised by Developers and politicians that our parking would continue to be free as towers and luxury condos pop up around us.

the legislature likes to make new laws that dont get enforced. Make a law for free surf parking and beach access in perpetuity please. I have been attending hearings and testifying to Protect our Surf since I was a small Keiki. (My parents were surfers too)

Mahalo

Heidi Leianuenue Bornhorst

SB-364

Submitted on: 2/1/2025 1:37:20 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Please ‘Hold’ SB364

Although DLNR Chair Chang has talked about the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor, during DLNR Chair Chang’s tenure as Chairperson. (Note: there were two DLNR ‘listening sessions’ on Oahu, Dec 12 (Windward) and 13, 2023 but few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and it was poorly advertised.

As reported in ACT 100, 2025 Division reports, allegedly there has been a ‘working group’ regarding a public-private-partnership (PPP) for the Ala Wai Small Boat Harbor. However, I or anyone I have spoken to knows about or has seen meeting announcements, agenda or minutes for a working group. The harbor users get to choose a community member to represent us at such meetings. We ask the Senate Water and Land Committee to ask the DOBOR/DLNR to show proof of community input for the Request for Proposal (RFP), or harbor development drawings.

Please HOLD this measure and require DOBOR/DLNR to resume regular public meetings.

I suggest, along with family and ocean recreation peers:

1. Three open public meetings about this PPP: two in person at a public school campus, and one on Zoom
1. Clearly state the minimum amount of free recreational parking and Kama’aina rate parking BEFORE the RFP goes to BLNR for approval and publication
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3. Clearly state the number of slips that will remain (699-plus-plus now) and the commercial versus recreational slips. (to prevent ‘Creeping Commercialism’.)
4. Any use of submerged lands must be approved by the legislature, not BLNR.
5. Maximum time for the lease be set by the Legislature, we recommend 30 years. Do not allow a 65 year lease.

6. Although there is still a need for a Master Plan, the RFP's should be smaller and develop "ONE LOT AT A TIME", for instance the former fuel dock area first, then the larger lot near the Prince Waikiki, which is the former 'Haul Out' site.
7. Do not NOT lease the harbor to a single corporate entity.
8. Making specific and detailed contracts that secure the public protections is crucial. There are examples of failed enforcement of PPP contracts, such as the bathrooms Hilton Hawaiian Village was supposed to have available on Duke Kahanamuku Road. Providing this amenity was a major reason the State gave the Hilton significant land area on the road. Much to the dismay of the public, the bathrooms were built but the bathrooms have not been made available for public use.

SB-364

Submitted on: 2/1/2025 2:08:57 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

I'm a local surfer and I strongly oppose this bill. Ala Wai small boat harbor is the only free parking for residents in all of Waikīkī.

SB-364

Submitted on: 2/1/2025 2:20:27 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

As a resident of Honolulu, I take enjoyment from bringing my family to this beach park every weekend. I would not be able to constantly pay a fee to park or risk getting towed constantly. I appreciate having someplace I can go without having to spend ridiculous amounts of money on to park. As is my taxes must contribute something to the upkeep of the beach park? Can we just enjoy our parks without fines as community members??

SB-364

Submitted on: 2/1/2025 2:42:52 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

Like so many of us who live here, I oppose the move to privatize parking in the Ala Wai harbor. How can our elected representatives even consider giving away more of our critical public recreational and outdoor assets to corporate entities for them to make a profit? The cost of living in Honolulu is *so high* and yet the legislature keeps advancing proposals that favor tourism operators, hotels, and private companies, completely ignoring the wishes of the people.

I urge you to please abandon this idea. Please insure that we, the people, are able to continue to access the ocean. It ain't broke. So don't fix it.

Jonathan Padwe

SB-364

Submitted on: 2/1/2025 3:09:55 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

It is difficult right now for anyone. People are worried about the Tariffs, losing their jobs and cuts to programs that help us survive Surfing and out public lands need to stay free and available to us all. We need a place we can go and enjoy our Ohana or Friends. We embrace the Ains and Kai. They are an important part of our lives. Public lands and Waters need to remain free. Pleasevote to oppose this bill that goes against everything we have known and want our children and grandchildren to know. Aloha

SB-364

Submitted on: 2/1/2025 3:54:38 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
GWEN YOUNG	Individual	Oppose	Written Testimony Only

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Please ‘Hold’ SB364

As a surfer and volunteer to Hawaii Marine Animal Response, free parking up to 4 hours is critical for residents. I spend 4 hour shifts several times per week doing public out reach and caring for monk seals, turtles, and down birds. Often times I need to be at the beach in front of bowls break for this vital work for our endangered and protected species. Paying for parking would make this volunteer work more difficult for all volunteers and for me also when I surf.

Although DLNR Chair Chang has talked about the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor, during DLNR Chair Chang’s tenure as Chairperson. (Note: there were two DLNR ‘listening sessions’ on Oahu, Dec 12 (Windward) and 13, 2023 but few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and it was poorly advertised.

As reported in ACT 100, 2025 Division reports, allegedly there has been a ‘working group’ regarding a public-private-partnership (PPP) for the Ala Wai Small Boat Harbor. However, I or anyone I have spoken to knows about or has seen meeting announcements, agenda or minutes for a working group. The harbor users get to choose a community member to represent us at such meetings. We ask the Senate Water and Land Committee to ask the DOBOR/DLNR to show proof of community input for the Request for Proposal (RFP), or harbor development drawings.

Please HOLD this measure and require DOBOR/DLNR to resume regular public meetings.

I suggest, along with family and ocean recreation peers:

- 1. Three open public meetings about this PPP: two in person at a public school campus, and one on Zoom**

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SB-364

Submitted on: 2/1/2025 8:55:51 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Morgan Bonnet	Individual	Oppose	Written Testimony Only

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Please oppose SB364. It is imperative to keep free parking at the Ala Wai harbor. There is no other nearby street parking available. So essentially, this would remove free access to the harbor and the beach to the public. Enough privatization already. You need to listen to your constituents, no the lobbies that want to develop the area for profit.

Mahalo,

Morgan

SB-364

Submitted on: 2/1/2025 10:16:38 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Deborah King	Individual	Oppose	Written Testimony Only

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Please ‘Hold’ SB364

Although DLNR Chair Chang has talked about the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor, during DLNR Chair Chang’s tenure as Chairperson. (Note: there were two DLNR ‘listening sessions’ on Oahu, Dec 12 (Windward) and 13, 2023 but few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and it was poorly advertised.

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Mahalo for the opportunity to testify.

Deborah W. King

PUBLIC TESTIMONY

In consideration of

Senate Bill SB364

RELATING TO PUBLIC BOAT HARBOR FACILITIES

Katherine Lindell
Honolulu, Hawaii

Saturday, February 1, 2025, 8:30 P.M.

This testimony has been published on the Hawaii Ocean News website (HawaiiOceanNews.com)

This testimony is intended for the following legislators: MORIWAKI, CHANG, FEVELLA, KIDANI, HASHIMOTO.

WE STRONGLY OPPOSE SB364, WITHOUT RESERVATION, for the following reasons:

It is a blatant violation of the Public Trust Doctrine established in federal and state case law.

It is a blatant violation of the intent and purpose outlined in the Hobron family trust

It is a blatant violation of the intent of the Kaiser Indenture and Deed and as such is a slap in the face to our ancestors who built the foundations for public trust in Hawaii.

It is a blatant admission by the state of Hawaii — and a warning to Hawaii's public — that the state's bureaucracy is wholly incapable of and unwilling to manage publicly held assets of any kind.

A "public/private partnership" is a subterfuge that is nothing more than the "sale" of publicly-owned land to a private entity for a 99 year period.

Lawmakers like Sharon Moriwaki have consistently demonstrated a deliberate and suspicious unwillingness to explore other ways of managing publicly-owned properties such as hybrid inclusion of strategically-placed competent private services that would help manage public properties like the Ala Wai Small Boat Harbor.

Governor Green, Sharon Moriwaki and a number of other lawmakers now occupying seats in our legislature have been unwilling to form a task force comprised of individuals who truly do know the harbors environment in Hawaii, focusing instead on

the convenience of handing over publicly-owned assets to pandering private corporations like Howard Hughes corporation and Hilton Hawaiian Corporation.

Current DOBOR Administrator, Megan Statts, has continuously lied to this legislature about the rationale and nature of this "public/private" subterfuge and should be removed from her position for having perjured herself to our lawmakers —and the public — on multiple previous occasions about this subject.

(<https://www.youtube.com/watch?v=WZyDNPu8XMc>)

The staff at Hawaii Ocean News *STRONGLY* opposes SB 364, the legislature's latest attempt to privatize a publicly-owned harbor facility. We encourage Hawaii residents to stand up and fight this kind of willful abuse of the public's right to have their lands managed in a way that would maintain equitable access.

Hawaii Ocean News opposes any poorly-thought-through attempt by our state government to privatize ANY publicly-owned harbor facility in the State of Hawaii. There *are* viable management alternatives.

SB-364

Submitted on: 2/2/2025 6:07:31 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Kristin Hamada	Individual	Oppose	Written Testimony Only

Comments:

I oppose any movements to privatize the boat harbor. Many community members use this parking lot everyday to access the water. If it becomes privatized and parking charges are likely to come into place, breaking up communities who regularly use the parking lot. Privatizing the public space will only limit access to the beach. Government should be taking care of public assets not selling them off to the highest bidder.

These days there's not a lot of activities people can do for free. We are forced to spend money to leave our homes, having free access to the beach is extremely important for working class people and the community more broadly. Otherwise before you know it we'll have rights to access the beach but everywhere will charge for parking, limiting that right to negatively impact the frequency we can access those spaces.

Don't give in to developers and big money again. This is all just kind of sad we need to continue to fight for our right to go beach. I oppose.

SB-364

Submitted on: 2/2/2025 8:16:13 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Kristen Kelly	Individual	Oppose	Written Testimony Only

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Please ‘Hold’ SB364

Although DLNR Chair Chang has talked about the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor, during DLNR Chair Chang’s tenure as Chairperson. (Note: there were two DLNR ‘listening sessions’ on Oahu, Dec 12 (Windward) and 13, 2023 but few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and it was poorly advertised.

As reported in ACT 100, 2025 Division reports, allegedly there has been a ‘working group’ regarding a public-private-partnership (PPP) for the Ala Wai Small Boat Harbor. However, I or anyone I have spoken to knows about or has seen meeting announcements, agenda or minutes for a working group. The harbor users get to choose a community member to represent us at such meetings. We ask the Senate Water and Land Committee to ask the DOBOR/DLNR to show proof of community input for the Request for Proposal (RFP), or harbor development drawings.

Please HOLD this measure and require DOBOR/DLNR to resume regular public meetings.

I suggest, along with family and ocean recreation peers:

1. Three open public meetings about this PPP: two in person at a public school campus, and one on Zoom
1. Clearly state the minimum amount of free recreational parking and Kama’aina rate parking BEFORE the RFP goes to BLNR for approval and publication
2. Clearly state that a boat ramp is required and that set amount of boat ramp trailer parking, at low or no cost.
3. Clearly state the number of slips that will remain (699-plus-plus now) and the commercial versus recreational slips. (to prevent ‘Creeping Commercialism’.)
4. Any use of submerged lands must be approved by the legislature, not BLNR.
5. Maximum time for the lease be set by the Legislature, we recommend 30 years. Do not allow a 65 year lease.

6. Although there is still a need for a Master Plan, the RFP's should be smaller and develop "ONE LOT AT A TIME", for instance the former fuel dock area first, then the larger lot near the Prince Waikiki, which is the former 'Haul Out' site.
7. Do not NOT lease the harbor to a single corporate entity.
8. Making specific and detailed contracts that secure the public protections is crucial. There are examples of failed enforcement of PPP contracts, such as the bathrooms Hilton Hawaiian Village was supposed to have available on Duke Kahanamoku Road. Providing this amenity was a major reason the State gave the Hilton significant land area on the road. Much to the dismay of the public, the bathrooms were built but the bathrooms have not been made available for public use.
- 9.

SB-364

Submitted on: 2/2/2025 9:04:46 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Marija Colic	Individual	Oppose	Written Testimony Only

Comments:

Dear Senate Water and Land Committee Chair Inouye, Vice Chair Elefante, and Committee Members Chang, McKelvey, and DeCorte,

I am writing to ask you to **hold SB364**.

I surf at Ala Wai, and access to this harbor is important to me and many others who enjoy the ocean. Parking is already limited, and I am concerned that changes to the harbor could make it even harder for local residents to access the water. We need clear plans that protect free and affordable parking for recreational users.

There have been no real opportunities for the public to provide input on the proposed changes. As a community, we should have a say in decisions that affect our ability to use the harbor. Before moving forward, there should be public meetings where users can share concerns and see the actual plans.

Please **hold this bill** and require DLNR to involve the public in a transparent process.

Mahalo for your time and consideration

Dr. Marija

SB-364

Submitted on: 2/2/2025 9:05:05 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessica Weaver	Individual	Oppose	Written Testimony Only

Comments:

Dear Senate Water and Land Committee Chair Inouye and Vice Chair Elefante and the Senator committee members Chang, McKelvey, and DeCorte:

Please ‘Hold’ SB364

Although DLNR Chair Chang has talked about the importance of community outreach and involvement, there have been no public meetings with Ala Wai Small Boat Harbor users regarding the harbor, during DLNR Chair Chang’s tenure as Chairperson. (Note: there were two DLNR ‘listening sessions’ on Oahu, Dec 12 (Windward) and 13, 2023 but few attended the Dec 13 (Sand Island) evening meeting, due to rain, traffic, and it was poorly advertised.

As reported in ACT 100, 2025 Division reports, allegedly there has been a ‘working group’ regarding a public-private-partnership (PPP) for the Ala Wai Small Boat Harbor. However, I or anyone I have spoken to knows about or has seen meeting announcements, agenda or minutes for a working group. The harbor users get to choose a community member to represent us at such meetings. We ask the Senate Water and Land Committee to ask the DOBOR/DLNR to show proof of community input for the Request for Proposal (RFP), or harbor development drawings.

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I suggest, along with family and ocean recreation peers:

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1. Clearly state the minimum amount of free recreational parking and Kama’aina rate parking BEFORE the RFP goes to BLNR for approval and publication
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3. Clearly state the number of slips that will remain (699-plus-plus now) and the commercial versus recreational slips. (to prevent ‘Creeping Commercialism’.)
4. Any use of submerged lands must be approved by the legislature, not BLNR.
5. Maximum time for the lease be set by the Legislature, we recommend 30 years. Do not allow a 65 year lease.

6. Although there is still a need for a Master Plan, the RFP's should be smaller and develop "ONE LOT AT A TIME", for instance the former fuel dock area first, then the larger lot near the Prince Waikiki, which is the former 'Haul Out' site.
7. Do not NOT lease the harbor to a single corporate entity.
8. Making specific and detailed contracts that secure the public protections is crucial. There are examples of failed enforcement of PPP contracts, such as the bathrooms Hilton Hawaiian Village was supposed to have available on Duke Kahanamoku Road. Providing this amenity was a major reason the State gave the Hilton significant land area on the road. Much to the dismay of the public, the bathrooms were built but the bathrooms have not been made available for public use.

SB-364

Submitted on: 2/2/2025 10:00:35 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

Aloha,

I oppose leasing the Alawai or any small boat harbor to a private company to run. This will cause prices to go up so only the mega wealthy will be able to sail or fish in Hawaii. The oversight of secure parking towing is just one example why the report to the legislature will do nothing. Curently DOBAR and DLNR collect zero data on how many cars are being towed by a private company that has been contracted to collect payment.

Please keep our public harbors in public hands and do not sell them off to the highest bidder.

Mahalo,

John Fitzpatrick

SB-364

Submitted on: 2/2/2025 11:18:07 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Keili McEvelly	Individual	Oppose	Written Testimony Only

Comments:

Aloha, my name is Ke‘ili and I am against bill SB364. As a Hawaiian, surfer, sailor and someone who cares for our ‘āina and our wai, I urge you to protect what remains public space for our people. Ala moana bowls is one of the last places on town that the Hawaiian community is able to gather. Is it not enough to pollute the area with firework debris, horribly unkept harbors, and trash from tourists? The people here care for the sacred sliver of paradise that remains. Ala wai is a place the community can gather peacefully for cookouts, to garden, mālama 'āina, and keiki can come and play. I urge you to take time to understand the people who care for this place and work alongside us. The more we can work together to solve issues in our community the better solutions we will find. Mahalo.

SB-364

Submitted on: 2/2/2025 11:44:13 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Alex Torres-Tarver	Individual	Oppose	Written Testimony Only

Comments:

I oppose and am deeply concerned by this bill. It is critical to keep public spaces available for the community which utilizes them. Much in the way that Waikiki has become increasingly harder for residents to access via expensive hourly parking, the privatization of the Ala wai will almost certainly make this coveted public spaces harder to access for the thousands of residents who recreate there. Furthermore, it's deeply concerning that despite the community loudly and repeatedly voicing their opposition to development which would limit access to the beaches and waterways around the Ala wai harbor, legislators continue trying to push through bills that go against the wishes of their constituents.

SB-364

Submitted on: 2/2/2025 12:17:56 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Norman Acupan	Individual	Oppose	Written Testimony Only

Comments:

Aloha Senate Water and Land Committee Chair Inouye, Vice Chair Elefante, and Committee Members Chang, McKelvey, and DeCorte,

I am writing to strongly oppose SB364, which proposes the privatization of the Ala Wai Small Boat Harbor. This harbor is not just a marina; it is a vital community resource that provides invaluable recreational, cultural, and social benefits to local residents and their families. It serves as a gathering place for fishing, surfing, beach outings, and enjoying simple pleasures like the Friday evening fireworks show—all integral parts of life in Hawaii.

One of the main arguments supporting this bill is that privatization will lead to improved facilities, increased revenue for the state, and greater operational efficiency. However, these purported benefits come with significant risks and costs to the community that far outweigh any potential gains:

1. **Public Access and Equity:** Privatization often results in restricted access and increased fees, which disproportionately affect local residents. For example, proposed parking fees as high as \$10 an hour are not in the best interest of the community, especially for local families already grappling with Hawaii's high cost of living. Such fees create barriers to enjoying spaces that have historically been accessible to all.
2. **Loss of Community Space:** The Ala Wai Small Boat Harbor is more than an economic asset; it is a community hub. Reducing public access in favor of commercial development diminishes opportunities for local families to connect with nature and each other, impacting mental health and quality of life. In a state where residents are increasingly priced out of housing, the loss of affordable recreational spaces is particularly harmful.
3. **Environmental and Cultural Concerns:** Private entities may prioritize profit over environmental stewardship and cultural preservation. The harbor area holds cultural significance, and decisions about its future should involve thorough community consultation and respect for Hawaii's unique heritage.
4. **Lack of Transparency and Community Involvement:** This bill appears to have advanced without adequate notice or meaningful opportunities for community input. Despite claims of a "working group" discussing public-private partnerships for the harbor, many harbor users and local residents were unaware of such meetings. This lack of transparency undermines trust and raises questions about whose interests are truly being served.

Recommendations:

- **Hold SB364** to allow for comprehensive community engagement, including at least three open public meetings: two in-person at accessible public venues and one via Zoom.
- **Ensure Transparency** in the Request for Proposal (RFP) process, with clear stipulations regarding public access, affordable parking (including kama'aina rates), and the maintenance of recreational amenities.
- **Limit Lease Terms** to a maximum of 30 years, avoiding excessively long leases that tie the state's hands for generations.
- **Prohibit Monopolization** by ensuring that no single corporate entity controls large portions of the harbor, thereby safeguarding against "creeping commercialism."

In conclusion, the Ala Wai Small Boat Harbor is a cherished public asset that should remain accessible and affordable for all residents of Hawaii. Our community deserves a voice in decisions that will impact our quality of life, cultural heritage, and connection to the ocean. I urge you to HOLD SB364 and prioritize the needs and voices of Hawaii's local communities.

Mahalo for your time and consideration.

SB-364

Submitted on: 2/2/2025 12:19:03 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

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

Comments:

Aloha Members of the Committee,

I strongly oppose SB 364 and ask you to please amend this bill.

For decades, proposals to develop the Ala Wai Small Boat Harbor have been met with strong opposition from the community. Residents have repeatedly voiced that this space is important and should remain accessible. Thousands of people use it every week, including paddlers, fishers, boaters, surfers, and beachgoers.

We are not against making the harbor a better place. But improvements should be made with the community, not at the expense of it. These stalls are some of the last free parking left in Waikiki. Should residents be priced out of Waikiki entirely?

Free recreational parking at the harbor is essential for keeping this space open to the public. Removing it would limit access for those who rely on this area for recreation, tradition, and community. Despite ongoing development efforts, there has been no meaningful effort to seek public input yet.

I urge you to listen to the people who use this space and recognize its value to the community. Please amend SB 364 to ensure that any lease of fast lands and submerged lands at Ala Wai Small Boat Harbor includes at least 300 free public parking spaces for recreational ocean access.

Mahalo for your time and consideration.

SB-364

Submitted on: 2/2/2025 12:39:10 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Jeannie Chesser	Individual	Oppose	Written Testimony Only

Comments:

Please do not privatize the Ala Wai small boat harbor. I have been surfing in the ocean fronting the harbor for over 54 years and continue to do so at least 5 days a week. I owned a small boat there in 1973. Slip 711. I have seen many changes in the harbor over the years, and know there is still a lot to improve on. But selling out is not the PONO way to go. There are many ways to improve the harbor and make it a beautiful and welcoming spot. The State just needs to WANT to help it. Not by lining anyone's pockets but by contributing in a positive way.

I am sorry I can't attend the meeting, I was just informed of it a few hours prior to writing this letter. My heart and soul are hoping the harbor does not end up looking like a foreign entity not attached to our beautiful state of Hawaii.

Much appreciation for your time

aloha

Jeannie Chesser



WAIKĪKĪ IMPROVEMENT ASSOCIATION

**Testimony of Rick Egged
Waikīkī Improvement Association**

Before the

Senate Committee on Water and Land

Monday, February 3, 2025

In consideration of SB 364 Relating to State Boating Facilities

Aloha Chair Inouye, Vice Chair Elefante and members of the Committee,

My name is Rick Egged, President of the Waikīkī Improvement Association (WIA). The WIA is a membership organization consisting of landowners, hotels, retailers and restaurants in Waikīkī, the businesses that serve them and those interested in the future of this important part of our community and economy.

WIA supports Senate Bill 364. This bill establishes a State Boating Facility Lease Program within the Division of Boating and Ocean Recreation of the Department of Land and Natural Resources to be administered by DOBOR. Authorizes the Board of Land and Natural to lease Ala Wai Small Boat Harbor for private development, management, maintenance, and operation.

The Ala Wai small boat harbor would benefit greatly by the management and investment of a private sector partner. The State simply does not have the resources to provide the services and environment that the jewel of the state system deserves.

Mahalo for the opportunity to testify.

Rick Egged

President of Waikiki Improvement Association

SB-364

Submitted on: 2/2/2025 12:57:24 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
ROBERT DUERR	Individual	Oppose	Written Testimony Only

Comments:

Aloha Chair Lorraine Inouye and Senators on the Water and Land Committee.

Strongly Oppose. SB364 which “Establishes a State Boating Facility Lease Program within the Division of Boating and Ocean Recreation of the Department of Land and Natural Resources to be administered by DOBOR.”

SB364 is once again DLNR and Division of Boating and Ocean Recreation’s non-transparent and non-accountable effort to privatize boating. This is a yearly event by DOBOR.

DOBOR in 2024 stated “WHEREAS, the Small Boat Harbor Program is severely underfunded, with approximately \$300,000,000 in deferred maintenance and capital projects statewide.” A year later DOBOR states in SB364 that the deferred maintenance is \$1.1 billion dollars. Where did this number come from?

DOBOR constantly mentions the Howard Hughes Corporation Kewalo Basin lease as a model for Hawaii harbors. Where are the financial numbers proving this success. These numbers are confidential and not open to transparency or accountability.

If such a success why don’t Kewalo Basin boating revenues go into the Hawaii Special Boating Fund mandated to keep Hawaii ocean access accessible and sustainable?

A little history. In 2004 DLNR first tried and failed to give harbor operations to the counties. In 2011 [Act 197](#) there was the failed attempt to lease harbor management by public auction, a request for proposals, or by direct negotiation.

In 2019 the Division of Boating and Ocean Recreation had private sector selloff as a key to its [Strategic Action Plan](#). “Modernizing Ocean Recreation Management in Hawai`i Strategic Action Plan - 2019 Department of Land and Natural Resources Division of Boating and Ocean Recreation.”

Why does a boating division on an island state want out of boating? Boaters might say because DOBOR doesn’t understand boating but DOBOR says otherwise in its Strategic Plan : “But the boom in ocean recreation, the weather, and Hawai`i’s landscape and culture - the engine that keeps Hawai`i’s economy healthy - does not result in a **windfall in funding** for DLNR or DOBOR.”

The coveted windfall funding from tourists is the reality of DOBOR's ocean recreation. DOBOR has cashed in on tourists like in the Kona manta ray tourist business where DOBOR has created a business model that is dangerous, overcrowded and disrupting local fishers.

DOBOR wants to lease harbors but it has a terrible track record of leasing. DOBOR wants out of boating and into tourist ocean recreation but most of this recreation is done from boats. What is going on in DOBOR and why do they want to do less?

Mahalo,

Robert Duerr

Hawaii County Game Management Advisory Commission District 1

LATE

SB-364

Submitted on: 2/2/2025 1:58:55 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Elizabeth Weitz	Individual	Oppose	Written Testimony Only

Comments:

I don't think privatization of the harbors is the answer to deferred maintenance. This harbor's parking lot is essential for people to access recreation. Given that surfing is a cultural tradition, and that ability to engage in physical exercise is crucial for maintaining physical and mental wellness, there should be no policy that differentially impacts 'who' gets to access this space (the ocean). Ultimately, privatization would penalize who gets to practice surfing as a cultural tradition, and who gets to access healthful activities, of course penalizing the poor. Don't do this! In doing so, you honor the Public Trust Doctrine. Other recreation sites across the state have free parking, don't systematically bar who gets to be in the ocean. I am sure the state can look at other solutions to deferred maintenance - for example, are there too many systemic barriers to getting things done? Consider addressing those.

LATE

SB-364

Submitted on: 2/2/2025 4:38:19 PM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Christopher Maurer	Individual	Oppose	Written Testimony Only

Comments:

Please do not privatize the parking at beaches, or harbors. Surfing and ocean recreation is a way of life in Hawaii. This will further erode our way of life

Testimony of Erik A. Rask on SB 364, “RELATING TO STATE BOATING FACILITIES.”

LATE

This bill purports to do the following:

Establishes a State Boating Facility Lease Program within the Division of Boating and Ocean Recreation of the Department of Land and Natural Resources to be administered by DOBOR. Authorizes the Board of Land and Natural to lease Ala Wai Small Boat Harbor for private development, management, maintenance, and operation. Repeals provisions relating to the leasing of fast lands and submerged lands of Ala Wai Boat Harbor. Requires annual reports to the Legislature. Repeals the State Boating Facility Lease Program on 6/30/2045.

See https://www.capitol.hawaii.gov/sessions/session2025/hearingnotices/HEARING_WTL_02-03-25_.HTM.

The Bill provides that:

The legislature finds that the division of boating and ocean recreation (DOBOR) of the department of land and natural resources is tasked with thirteen statutory mandates primarily relating to the operation and management of state small boat harbors and the administration of the ocean recreation management program. However, the legislature recognizes that, due to statutory limitations, DOBOR has been unable to fulfill its statutory mandate of administering the ocean recreation management program, and instead has disproportionately devoted almost all of its staff and resources to the operation and management of the sixteen state small boat harbors and numerous boat launch ramp facilities throughout the State.

HI SB 364 (2025). These are the same exact recycled arguments DOBOR in its 2019 “Strategic Plan” under which the State would give to private corporations lands devoted to public use:

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. But, this failing system also presents a challenge and an opportunity to embrace change.

...

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.

...

The management and operation of the State’s boating facilities is only one of the thirteen mandates associated with the boating and coastal areas program. Running small boat harbors has always consumed the majority of DOBOR’s personnel hours

and resources, yet the thirteen statutory mandates require an equal allocation of resources between boating and ocean recreation management.

...

Through its successful implementation of a public-private partnership (PPP) strategy, Kewalo Harbor on O'ahu has demonstrated that this approach can provide successful, effective harbor management solutions and infrastructure development to Hawai'i's harbors. Under the Hawai'i Community Development Authority's (HCDA) jurisdiction, Kewalo Basin is leased to the Howard Hughes Corporation (HHC) which contracts harbor management to Almar Marina Management Company. The former brings in capital for infrastructure development, while the latter manages the facilities.

...

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." Transforming the facility requires a revision of management strategy to enable the asset to generate greater revenues, a change that is possible through public-private partnerships.

DOBOR's 2019 "Strategic Plan" (available at: https://dlnr.hawaii.gov/dobor/files/2019/09/DOBOR-Strategic-Plan-2019_webpost.pdf). This same legislature rejected DOBOR's plan to give public lands to private corporations in several years of legislative sessions, including those sessions from 2020 to the present. Yet, notwithstanding the firing of prior-Administrator Ed Underwood, Underwood is back again seeking to win a seat at the table where Hawaii's real estate investors rub elbows.

The committee(s) on WTL has scheduled a public hearing on 02-03-25 1:06PM; Conference Room 229 & Videoconference. I respectfully request that this committee table this legislation once again.

I apologize if this is submitted late.

Thank you for your consideration.

Aloha,
Erik Rask

LATE

SB-364

Submitted on: 2/3/2025 12:24:51 AM

Testimony for WTL on 2/3/2025 1:06:00 PM

Submitted By	Organization	Testifier Position	Testify
Korynn Grenert	Individual	Oppose	Written Testimony Only

Comments:

Subject: Request to Hold SB364 – Ensure Public Input on Ala Wai Small Boat Harbor

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

Please **hold SB364** to ensure proper community engagement regarding the Ala Wai Small Boat Harbor. Despite DLNR Chair Chang's emphasis on outreach, no public meetings have been held with harbor users during her tenure. A supposed "working group" on a public-private partnership (PPP) has operated without transparency—no public notices, agendas, or meeting minutes have been shared. Harbor users deserve representation in these discussions.

We request the Senate Water and Land Committee require DOBOR/DLNR to:

- Provide proof of community input for the RFP or harbor development plans.
- Resume **regular public meetings**, including three open forums (two in-person, one virtual).
- Clearly define key terms **before** the RFP approval, including:
 - Minimum free and Kama'aina rate parking.
 - Required boat ramp and low-cost trailer parking.
 - The Number of recreational vs. commercial slips to prevent “creeping commercialism.”
- Ensure **legislative approval** for submerged land use and limit lease terms to **30 years** maximum.
- Adopt a **phased development approach** (“one lot at a time”) instead of leasing the entire harbor to a single corporate entity.
- Strengthen contract enforcement to protect public interests, learning from past PPP failures, such as Hilton Hawaiian Village’s failure to provide public restroom access as required.

Thank you for considering the need for transparency and community involvement in this critical decision.

Sincerely,
Korynn Grenert