

JOSH GREEN, M.D.
GOVERNOR

SYLVIA LUKE
LT. GOVERNOR



STATE OF HAWAII
PUBLIC UTILITIES COMMISSION
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Testimony of the Public Utilities Commission

To the
House Committee on
Consumer Protection and Commerce

February 20, 2025
2:00 p.m.

Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

Measure: HB. No. 1422, H.D. 1
Title: RELATING TO MOTOR CARRIERS.

Position:

The Public Utilities Commission ("Commission") offers the following comments for consideration.

Comments:

The Commission appreciates the intent of this measure to exempt nonprofit and community-based organizations providing transportation services from motor carrier regulations under certain circumstances.

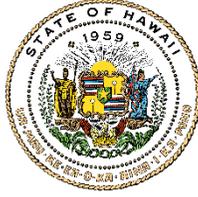
To implement the new exemption in the measure, the Commission respectfully seeks clarification on what is defined as a "non-profit community-based organization" as it would be difficult for the Commission to determine or qualify what is "community-based." This may include nonprofits that may provide non-emergency medical transport, transportation for seniors and disabled, etc. Also, the Commission would appreciate clarification or definitions for terms like "county-approved plan" and "community stakeholders."

Furthermore, there may be unintended consequences on competition if a nonprofit entity inadvertently competes for the same customer base as a regulated motor carrier. The nonprofit entity may have an unfair advantage as they would not be required to file an application for a Certificate of Public Convenience and Necessity (CPCN) in order to operate and provide service in the State. Unlike regulated motor carriers, the nonprofit entity would be exempt from obtaining minimum levels of commercial and business automobile insurance required under regulation and be subject to annual filings that include vehicle inventory list, insurance, annual fees, and financial reports.

Thank you for the opportunity to testify on this measure.

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

DIVISION OF STATE PARKS
P.O. BOX 621
HONOLULU, HAWAII 96809

Testimony of
DAWN N.S. CHANG
Chairperson

Before the House Committee on
CONSUMER PROTECTION & COMMERCE

Thursday, February 20, 2025
2:00 PM
State Capitol, Conference Room 329

In consideration of
HOUSE BILL 1422, HOUSE DRAFT 1
RELATING TO MOTOR CARRIERS

House Bill 1422, House Draft 1 proposes to exempt non-profit community-based organizations providing transportation services from motor carrier regulations under certain circumstances. **The Department of Land and Natural Resources (Department)** understands the intent and offers supportive comments - but defers to the Public Utilities Commission on substantive comments and any operational consequences.

Due to over-tourism, there is a critical need to develop alternative methods for transporting visitors in a manner that is less impactful to our local communities that are adjacent to stunning natural resources promoted and used as the backdrop of Hawai'i's tourism industry, including Hawai'i's iconic State Parks. This is especially true in rural locations that have been subjected to decades of over-tourism creating crowded roadside parking, traffic impediments, interference with County first responders attempting to gain vehicle access and precluding local residents, from accessing and enjoying these resources as well.

The model developed at Hā'ena State Park is mentioned in the bill – and this collaboration between State Parks, the nonprofit Hui Maka'āinana o Makana (Hui) and the shuttle service provided by the Hanalei Initiative, has proven to be a highly successful model of restoring an equitable balance of public access to an area that had been subjected to decades of over tourism. In addition to providing new revenue to support co-management, it now allows our residents to once again also enjoy the park and the adjacent Kē'ē beach and Kalalau trail.

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

Across the island chain on the Big Island, State Parks is actively working with the nonprofit Hoala Kealakekua Nui (HKN) who is in the process of purchasing property that would make a very effective shuttle base to reduce visitor traffic along the rural Napo‘opo‘o road that leads down to the Kealakekua Bay State Historical Park. HKN, like the Hui, is comprised of lineal descendants and other community members and seek to add to their stewardship support for Kealakekua by providing ancillary transportation services in the future.

Another impacted area where this legislation may be of additional value is along the Hana Highway on Maui, a roadway and destination impacted by over tourism. While there is a robust commercial carrier industry servicing Maui – this bill may provide Maui nonprofits an incentive to also form plans to reduce the number of independent drivers and create shuttle services. In addition to alleviating traffic – the shuttles themselves become interpretive venues to educate the out-of-state visitor prior to their arrival to these natural and cultural landscapes. This not only alleviates the crowded parking and roadway situations – it can also lead to a more informed and culturally sensitive visitor.

Thank you for the opportunity to comment on this measure.

OFFICE OF ECONOMIC DEVELOPMENT

NALANI BRUN, DIRECTOR



DEREK S.K. KAWAKAMI, MAYOR
REIKO MATSUYAMA, MANAGING DIRECTOR

Testimony of Christina Kaser

Energy Coordinator, Office of Economic Development, County of Kaua'i

Before the

Committee on Consumer Protection & Commerce

February 20, 2025; 2:00 p.m.

Conference Room 329 & Via Videoconference

In consideration of

House Bill 1422 HD1

Relating to Motor Carriers

Honorable Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

The County of Kaua'i is in **support** of House Bill 1422 HD1, which exempts non-profit community-based organizations providing transportation services from motor carrier regulations under certain circumstances.

The County greatly appreciates the efforts of Hanalei Initiative's North Shore Shuttle project, having successfully reduced traffic congestion between Princeville and Hā'ena, decreased visitor numbers at Hā'ena State Park and Ke'e Beach, eased tensions between residents and visitors, all while the Initiative has been able to subsequently substantially reinvest into the community.

Stakeholders are actively exploring ways to replicate and build on this model, and our next focus is developing the East Side's Coconut Marketplace Mobility Hub. While similar to the North Shore Shuttle in some ways, this hub prioritizes airport shuttle connections and further integrates a suite of transportation services for both visitors and local residents, located at a shopping center rather than a site on government-land where access can be more easily limited. Through public-private collaboration, the County developed the Coconut Marketplace Mobility Hub Plan which explored on-site and surrounding area infrastructure and wayfinding improvements, the development of an airport shuttle, multi-modal transportation options, management strategies, and a high level operational and implementation plan. The County worked with community, business leaders, the visitor industry, non-profit organizations, government officials, State and County stakeholders, and transportation experts to develop this plan. The next phase involves partners seeking funding for the hub's build out and implementation.

The County's and community's vision extends beyond these initial projects. Partners aim to establish a network of mobility hubs bridging communities island-wide, transforming how visitors and residents travel while reducing congestion as well as the strain on our existing highway and roadway infrastructure, and natural resources.

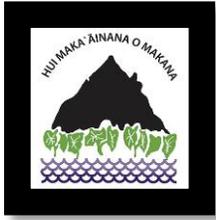
The model of regional non-profits operating hubs and shuttles allows for extremely localized engagement and decision-making, ensuring community led, operated, supported, and reinvested

transportation systems. Not only is Hanalei Initiative able to manage where its shuttle stops, but it is educating shuttle riders with messaging crafted by people from the North Shore, and guiding funding towards natural resource management and local food production on the North Shore. We see this as one clear way our residents can directly benefit from the visitor industry and start to approach the balance we seek in managing tourism. This model sets a precedent for sustainable transportation solutions across Kaua'i and Hawaii.

While shuttles may be a mix of contracted services and non-profit owned fleets, the latter should be treated differently under Hawaii State Law as there are clear distinctions in ownership from for-profit motor carriers to local non-profits, as evidently described above.

Thank you for the opportunity to testify in **support** of House Bill 1422 HD1.

HUI MAKĀ'ĀINANA O MAKANA



The Hui Maka'āinana o Makana is a non-profit organization dedicated to perpetuating and teaching the skills, knowledge, and practices of our kūpuna (ancestors) through the interpretation, restoration, care, and protection of natural and cultural resources in within the Hā'ena State Park.

TO: Rep. Scot Matayoshi, Chair
Rep. Cory Chun, Vice Chair
Members of the House COMMITTEE ON CONSUMER PROTECTION & COMMERCE

DATE: Thursday, February 20, 2025
TIME: 2:00 p.m.
PLACE: VIA VIDEOCONFERENCE

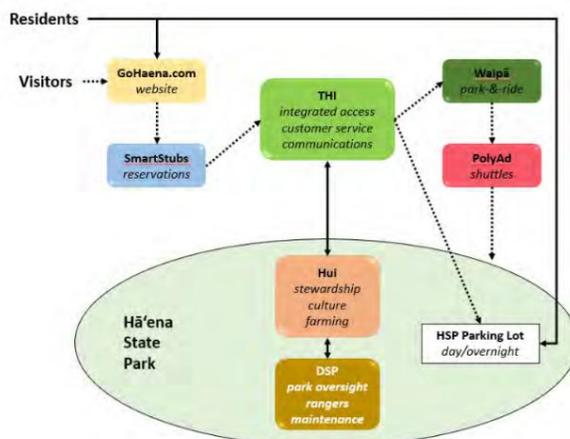
From: Chipper Wichman, Secretary
Hui Maka'āinana o Makana

RE: **Testimony in Support of HB1422**

Dear Chair Matayoshi, Vice Chair Chun, and members of the COMMITTEE ON CONSUMER PROTECTION & COMMERCE:

I am writing today as a founding Director and current Secretary of the Board of Directors of the Hui Maka'āinana o Makana (the Hui) a nonprofit established in 1999 to support the care and management of Hā'ena State Park (HSP). **The Hui is in strong support of HB 1422.**

Since the last hearing on this bill which was held on Feb 4th before the House Transportation Committee, we have been working on some amendments to the bill that will address the issues raised by the PUC in their testimony. While I will leave it to others to expound on the proposed amendments including important definitions for key terms in the bill, what I want to emphasize today in my testimony is that the



fees we charge for the shuttle service that brings visitors to Hā'ena State Park (HSP) provide essential support for a complex management system that we operate to support HSP through our Revokable Use Permit with DLNR. The infographic shown here gives you a visual indication of the complex nature of this integrated system.

The Hui's *kuleana* is much more expansive than just operating a transportation service, whose fares are regulated by the PUC. The PUC's

automatic rejection of rate increases above 10% per year does not reflect the type of costs we are experiencing to operate this integrated system which supports the restoration and management of the cultural landscape in the Park. As a community-based non-profit organization we don't have investors and

deep pockets, all we have is a unique system that we have established to support our vision of a regenerative tourism model that supports our work to *mālama ʻāina*.

Some background on how this came about. Over the past 20 years, the Hui has worked closely with the Division of State Parks to restore the ancient loʻi kalo system that exists in HSP and we played a leadership role in the 10-year long process of developing the Master Plan for Hāʻena State Park which was adopted by the Board of Land and Natural Resources in 2018. Since 2021, the Hui has held a revokable permit for the management of a reservation system for the collection of parking fees, entry fees and shuttle services and resource enhancement in Hāʻena State Park. We are able to do this by partnering with another community-based nonprofit organization called The Hanalei Initiative (THI).

Through a contract with the Hui, THI operates the ecommerce portal, reservation system, shuttle system, and collection of all entry and parking fees. Together the Hui and THI have created 35 full-time jobs for our community and we have transformed the Park back into a living cultural landscape where ancient cultivars of taro are being preserved while also providing food for our community – all of this has been done at no cost to the State of Hawaii.

The partnership we have created has done more than just improve Hāʻena State Park and create good jobs for our community. The shuttle system we have developed has significantly reduced the number of tourist cars driven on our narrow roads and made our communities safer and more multimodal friendly. While we have utilized Polynesian Adventures as a sub-contractor to operate 24-passanger shuttles from Hanalei to Hāʻena for the past three years, we are now looking ahead and hope to be able to operate our own fleet of smaller electric shuttles which will create more new jobs, reduce our carbon footprint, and make our narrow roads even safer for our community.

While I have made this sound very easy – it is far from that. We have had to adapt and evolve constantly over the past 3 years which is not easy for two community-based nonprofit organization that do not have investors or deep pockets. There have been many months when we have not realized net operating income due to rising costs to operate the system and unexpected challenges like shutting down for a month because of the norovirus outbreak in Kalalau valley last year.

The PUC regulation of our small shuttle system has created difficulty and limited our ability to adapt to the ever-changing cost environment we are living in. Furthermore, it had made it difficult to plan for the transformation of our model to an electric fleet of self-operated vans. As we look at justifying the capital costs projected for the transformation of our transportation model, we need the ability to adjust our shuttle ticket price so that our revenue can keep up with rising costs.

In closing, we ask for your support of HB1422 and the amendment that are being proposed. We a living example of why community-based non-profit organizations that provide transportation services should be EXEMPT from the State’s motor carrier regulations. Small shuttle systems like the one we operate, which greatly benefit our community should not be regulated by the PUC.

Me ke aloha,

A handwritten signature in black ink, appearing to read "Chipper Wichman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Chipper Wichman, Secretary
Hui Makaʻāinana o Makana



The Honorable Scot Matayoshi, Chair
House Committee on Consumer Protection and Commerce
Hawaii State Capitol, 415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Matayoshi and Members of the Committee:

My name is Joel Guy and I am the Executive Director of The Hanalei Initiative. I would like to incorporate my February 2, 2022 testimony before the House Transportation Committee for House Bill 1422 by reference.

For today's testimony, I would like to speak to the concerns raised in the Public Utilities Commission testimony before the House Transportation Committee and offer some amendments to House Bill 1422 to help address the issues raised.

There is a definition for "community-based organization" that exists in statute that should be referenced in this bill. Chapter 210D, HRS states:

"Community-based organization" means a nonprofit corporation incorporated in the State of Hawaii that is organized and controlled by either a geographic community, a community of identity, or a community of interest and that is directly involved in community-based economic development activities.

We also suggest adding the term "community-based economic development," as defined in Chapter 210D, HRS. It speaks directly to the purpose of a community based organization:

"Community-based economic development" means a community institution-building process that results in community-based enterprises and other economic development activities which are designed and implemented by a community; consistent with a community's values, culture, and vision; and intended to increase community control over local resources and decision-making processes.

Regarding the term "county-approved plan," typically, a state or county plan must be approved by a state or county authority, for example, the Haena State Park Master Plan and, subsequently, the revocable permit and contract to operate the entry/access

management program were approved by the Board of Land & Natural Resources. I would surmise a county approved plan would have a similar approval process with regard to permits and contracts.

Chapter 210D, HRS also has a definition for “community of interest” but it is not exactly on point. For the Committee’s consideration, we offer the following definition for “community stakeholder.”

“Community stakeholders” means individuals, groups or other organizations within the geographically defined area served by and that have a direct interest in the activities and outcomes of the community-based organization and community-based economic development.

It appears the commission’s concern about community based organizations having an unfair competitive advantage over other transportation companies may be misplaced. The emergence of community based organizations to address long standing resource management challenges is complex cannot be solved by a single transportation company, however, this does not preclude a for profit transportation company from participating in a state or county approved plan, or as the bill is currently written, be exempt from PUC regulation. The Hanalei Initiative did issue a request for proposal at the onset of its management contract and only had one response. Currently, The Hanalei Initiative does have an agreement with Polynesian Adventures to provide transport for a portion of its shuttle services.

From our experience, solutions must engage multiple public and private partnerships and give opportunities for reinvestment in impacted communities. The opportunities for other transportation companies to participate really is dependent on the best solutions offered in the state or county approved plan. I defer to the testimony of Chipper Wichman of Hui Makaainana O Makana to speak to our collective experiences in addressing the Haena State Park situation and on the amount of time and effort it took to develop a workable plan and implementing its execution.

As it is in the purview of the state or county agency to review and approve a community based organization’s ability to accomplish its stated goals and objectives in a contract, we offer language to have the involved state or county agency make the determination that the community based organization would meet all the criteria for an exemption and be the responsible party to notify the commission of its determination.

I am attaching a mark-up of the bill with the suggested amendments for the Committee’s consideration.

With respect,

Joel Guy

The Hanalei Initiative

Recommended Amendments as of 02/19/2025

19) ~~Non-profit~~Community-based organizations engaged in community based economic development providing transportation services; provided that:

- (A) The transportation services are operated within the parameters of a state or county-approved plan that is contracted or regulated under the authority within the purview of that state or county government agency. The state or county government agency shall require, or may exceed, the minimum requirements for commercial and business insurance required under this chapter;
- (B) The ~~non-profit~~ community-based organization owns the transportation service related assets and these assets cannot be sold for ~~profitor~~ personal gain for the duration of the exemption from this chapter; and
- (C) Community stakeholders have a role in the operation of the ~~non-profit~~ community-based organization." and
- (D) The state or county government agency shall notify the commission its determination that the community-based organization qualifies for this exemption.

For the purposes of this section, "community-based organization" and "community based economic development" shall have the same meaning found in HRS 210D-2; "community stakeholders" means individuals, groups or other organizations within the geographically defined area served by and that have a direct interest in the activities and outcomes of the community-based organization and community-based economic development.