

ORIGINAL

EXECUTIVE CHAMBERS

HONOLULU

MAY 28, 1999

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1711

Honorable Members
Twentieth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1711, entitled "A Bill for an Act Relating to Kaneohe Bay."

The purpose of House Bill No. 1711 is to protect residential noncommercial piers at Kaneohe Bay and Kahaluu from fully complying with chapter 183C, Hawaii Revised Statutes, regardless of when the pier was built and to establish a lease rent moratorium on those piers until the Department of Land and Natural Resources (DLNR) adopts a private residential noncommercial pier lease rent formula.

Section 14 of Article III of the State Constitution requires that "[e]ach law shall embrace but one subject, which shall be expressed in its title." The subject of this bill, as expressed in its title, is "Kaneohe Bay." However, this bill exempts all residential noncommercial piers, and all docks, public or private, commercial or non-commercial, regardless of location, from prior legislative and gubernatorial approval under section 171-53, Hawaii Revised Statutes. Because section 3 of the bill exempts all residential noncommercial piers and all docks from the requirements for a lease of submerged lands under section 171-53, Hawaii Revised Statutes, not just those located in Kaneohe Bay, this bill violates Section 14 of Article III of the State Constitution.

Additionally, this bill establishes a lease moratorium on submerged lands and private piers until DLNR adopts a residential lease rent formula. This moratorium is unnecessary.


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DLNR by statute is required to charge fair market rent and should not be additionally required to adopt a special "residential lease rent formula" prior to collecting any fair market rent owed. The moratorium to stay collection of lease rents does not serve any public purpose and is not in the public interest. The bill also provides for a credit for owners of legal piers who have paid rent in the past for the use of submerged lands. Crediting moneys paid to DLNR for the use of submerged lands is a windfall to private parties and serves no public purpose.

The bill would restrict access to piers in Kaneohe Bay where no restriction currently exists. This restriction is not in the public interest. The bill appears to favor owners of illegal piers by allowing those piers to be considered non-conforming uses in the conservation district and by forgiving any past rent that may be owed for the use of submerged lands. The bill would also prohibit the assessment of any fines against owners of illegal piers. It is inequitable for the owners of piers in Kaneohe Bay who have complied with the laws and paid for the use of submerged lands to be placed at a disadvantage over those that have violated the law.

For the foregoing reasons, I am returning House Bill No. 1711 without my approval.

Respectfully,


BENJAMIN J. CAYETANO
Governor of Hawaii

P R O C L A M A T I O N

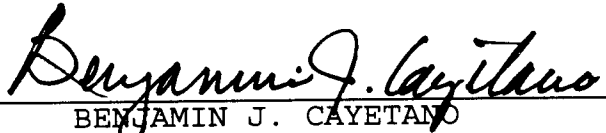
WHEREAS, under Section 16 of Article III of the Constitution of the State of Hawaii, the Governor is required to give notice, by a proclamation, of his plan to return with his objections any bill presented to him less than ten days before adjournment sine die or presented to him after adjournment sine die of the Legislature; and

WHEREAS, House Bill No. 1711, entitled "A Bill for an Act Relating to Kaneohe Bay," passed by the Legislature, was presented to the Governor within the aforementioned period; and

WHEREAS, House Bill No. 1711 is unacceptable to the Governor of the State of Hawaii;

NOW, THEREFORE, I, BENJAMIN J. CAYETANO, Governor of the State of Hawaii, do hereby issue this proclamation, pursuant to the provisions of Section 16 of Article III of the Constitution of the State of Hawaii, giving notice of my plan to return House Bill No. 1711 with my objections thereon to the Legislature as provided by said Section 16 of Article III of the Constitution.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 28th
day of May, 1999.


BENJAMIN J. CAYETANO
Governor of Hawaii