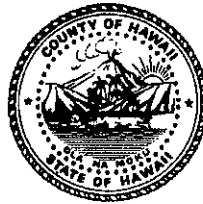


William P. Kenoi
Mayor



Deanna S. Sako
Director

Lisa K. Miura
Deputy Director

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Finance Department

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February 26, 2015

The Honorable Jill N. Tokuda, Chair
And the Members of the Ways and Means Committee
Hawaii State Capitol, Room 211
Honolulu, Hawaii 96813

RE: Senate Bill 1127, RELATING TO ENFORCEMENT ACTIONS BY THE
BOARD OF LAND AND NATURAL RESOURCES

Aloha Chair Tokuda and Committee Members:

The County of Hawaii strongly OPPOSES this measure as written.

This measure pertains to vehicle registration license stoppers. The law, as written, imposes a due diligence obligation on motor vehicle registration to determine the correct vehicle to flag.

Nothing in the bill requires BLNR to provide the license plate number of the vehicle. This means that each county must conduct a search of the motor vehicle registration data base by name. To ensure that the counties are conducting a due diligence search, BLNR should also be required to provide at least the individual's address if the license plate number is not available. Vehicle(s) that will be flagged must match the individual's name and address.

Aloha,

A handwritten signature in dark ink, appearing to read "Deanna S. Sako".

Deanna S. Sako
Finance Director



SB1127 SD1
**RELATING TO ENFORCEMENT ACTIONS BY THE BOARD OF LAND AND NATURAL
RESOURCES**

Senate Committee on Ways and Means

February 26, 2015

9:00 a.m.

Conference Room 211

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1127 SD1, which facilitates more efficient and consistent enforcement of natural and cultural resource laws through non-criminal, administrative adjudication by the Board of Land and Natural Resources (BLNR).

Over the last decade, it has become clear that numerous issues are inhibiting the effective enforcement of natural and cultural resource laws and regulations under the jurisdiction of the Department of Land and Natural Resources (DLNR). While funding and overall capacity are clear and obvious challenges to enforcement, **it appears that the current, nearly exclusive reliance on the criminal court system has also presented significant barriers to the effective enforcement of our natural and cultural resource laws.** Such barriers include:

1. The reluctance of district court judges and prosecutors to impose criminal liability commensurate with criminal property damage, drug possession, or third degree assault for natural resource violations;
2. The substantive and procedural burdens of proof required to establish a criminal violation, including the “beyond a reasonable doubt” criminal burden of proof and the relatively stringent Hawai‘i Rules of Evidence;
3. A lack of substantive institutional knowledge within the criminal district court system of specific natural resource laws, their jurisdictional bases, and how they are or should be interpreted or applied; and
4. The disproportionate cost of enforcing rare and esoteric natural and cultural resource cases in an overburdened criminal court docket, consisting almost entirely of more familiar and readily established crimes.

One suggested approach to obviating the above barriers has been the expanded use of the BLNR’s noncriminal, administrative enforcement authorities, such as those used to enforce conservation district violations by the Office of Conservation and Coastal

Lands.¹ However, while the BLNR currently already has the authority to administratively impose civil sanctions for most natural and cultural resource violations, the BLNR's capacity to do so is limited by concerns regarding the department's capacity to recover outstanding fines or other penalties should an alleged violator default, or otherwise fail to comply with administrative penalty conditions in lieu of administrative fines.

This bill addresses concerns preventing the BLNR from exploring expanded noncriminal enforcement of natural and cultural resource violations. Providing the BLNR with authority to place a car registration stopper for recalcitrant or noncompliant violators will allow the BLNR to more efficiently ensure compliance with imposed penalties, without resorting to civil litigation or more costly processes. Such enhanced efficiency will greatly facilitate the expanded use of the BLNR's noncriminal enforcement authorities, by allowing the BLNR to directly adjudicate violations of laws and regulations under their purview, within their institutional expertise, and in consideration of all relevant and probative evidence and mitigating factors. Ultimately, OHA believes that the expanded use of such an alternative enforcement process may significantly reduce long-standing systemic barriers to enforcing the laws that protect Hawai'i's invaluable natural and cultural resources.

Therefore, OHA urges the Committee to **PASS** SB1127 SD1. Mahalo for the opportunity to testify on this measure.

¹ See HB2590 (Reg. Sess. 2012); SB2852 (Reg. Sess. 2012); Fish and Coral Think Tank, The Authorizing the Board to Use Transformative, Fair, and Consistent Enforcement (ABOUT FACE) Act, <http://factt.weebly.com/about-face-act.html> (last accessed Jan. 30, 2013).