

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

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FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
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

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the Senate Committee on
WATER AND LAND

Wednesday, January 31, 2018
2:45 PM
State Capitol, Conference Room 224

In consideration of
SENATE BILL 2286
RELATING TO STATE SMALL BOAT HARBORS

Senate Bill 2286 (1) proposes to require all use permits at the Ala Wai small boat harbor to be obtained at public auction, (2) requires that public notice of the public auction for a use permit at the Ala Wai small boat harbor be given and include certain information, and (3) requires all public auctions for use permits at the Ala Wai small boat harbor to be conducted by the Chairperson of the Board of Land and Natural Resources (Board) or an authorized employee of the Department of Land and Natural Resources (Department) under the direction of the Board without additional compensation. **The Department supports the intent of this measure and offers the following comments.**

The Ala Wai small boat harbor is the State's largest small boat harbor with over 750 berths and moorings. The Department notes that the mooring fees at Ala Wai small boat harbor, which are separate from revenue generated by land concessions such as parking at that harbor unrelated to moorings, do not cover the cost of managing and maintenance, repairs, replacement, and improvements to mooring slips and associated infrastructure used by the boaters moored at the harbor. The Department acknowledges that the Legislature recognizes the high value of moorings at the Ala Wai small boat harbor and the importance of generating revenue to cover the costs of the mooring program and associated infrastructure of in order to support the State's boating and ocean recreation program as well as reducing the need for state taxpayers to subsidize underutilized facilities.

In order to achieve a similar outcome, the Department suggests consideration of an appraised fair market value approach rather than public auction. This can be done by amending Hawaii Revised Statutes (HRS) § 200-10(c)(1), which states that "moorage fees shall be established by appraisal by a state-licensed appraiser approved by the department", by adding the language "and shall be set at fair market value." Adding the suggested language will clarify that the intent of

the appraisal is to charge fair market value and not just recoup costs. This process would be procedurally easier and ensure that the mooring permits are issued in an efficient and timely manner.

The Department also recommends incorporating language to amend the fee calculation regarding a recreational vessel used as a place of principal residence and recommends including language for timing of when fee increases go into effect after the Department has approved a fee increase under HRS § 200-10(c).

The Department's recommended changes to HRS § 200-10(c) & (d) are reflected below. The Department's recommended additions to the original bill are double underlined; the Department's recommended removals are single underlined and stricken.

(c) ~~[The]~~ For mooring use permits at all state small boat harbors ~~[other than the Ala Wai boat harbor]~~ the permittee shall pay moorage fees to the department for the use permit that shall be based on, but not limited to the use of the vessel, its effect on the harbor, use of facilities, and the cost of administering this mooring program; and, furthermore:

(1) Except for commercial maritime activities where there is a tariff established by the department of transportation, moorage fees shall be established by appraisal by a state-licensed appraiser approved by the department ~~[and shall be higher for nonresidents than for residents. The moorage fees shall be set by appraisal categories schedule A and schedule B, to be determined by the department, and may be increased annually by the department, to reflect a cost of living index increase; provided that:]~~

~~(A) Schedule A shall include existing mooring permittees; and~~

~~(B) Schedule B shall apply to all new mooring applicants and transient slips on or after July 1, 2011;~~

~~provided further that schedule A rates shall be increased by the same amount each year so that~~

schedule A rates equal schedule B rates by July 1, 2014;] and shall be set at fair market value;

- (2) For commercial maritime activities where there is a tariff established by the harbors division of the department of transportation, the department may adopt the published tariff of the harbors division of the department of transportation or establish the fee by appraisal by a state-licensed appraiser approved by the department;
- (3) An application fee shall be collected when applying for moorage in state small boat harbors and shall thereafter be collected annually when the application is renewed. The application fee shall be:
 - (A) Set by the department; and
 - (B) Not less than \$100 for nonresidents;
- (4) If a recreational vessel is used as a place of principal habitation, the permittee shall pay, in addition to the moorage fee, a liveaboard fee that shall be [~~calculated at a rate of:~~
 - ~~(A) \$5.20 a foot of vessel length a month if the permittee is a state resident; and~~
 - ~~(B) \$7.80 a foot of vessel length a month if the permittee is a nonresident;~~provided that the liveaboard fees established by this paragraph may be increased by the department at the rate of the annual cost of living index, but not more than five per cent in any one year, beginning July 1 of each year;] established by appraisal by a state-licensed appraiser approved by the department and shall be set at fair market value.
- (5) If a vessel is used for commercial purposes from its permitted mooring, the permittee shall pay, in lieu of the moorage and liveaboard fee, a fee based on three

per cent of the gross revenues derived from the use of the vessel or two times the moorage fee assessed for a recreational vessel of the same size, whichever is greater; and

(6) The department is authorized to assess and collect utility fees, including electrical and water charges, and [~~common area~~] common area maintenance fees in small boat harbors.

(7) Any fee increases pursuant to this subsection shall go into effect sixty calendar days after the department approves the increase.

[(d) For use permits at the Ala Wai boat harbor, all use permits shall be obtained at public auction; provided that adequate public notice of the public auction shall be given. The public notice shall:

(1) Be provided at least once statewide and once in the city and county of Honolulu; and

(2) Include the time and place of the public auction, moorage location and description, specific use for which the moorage is intended, if any, and upset price, if any.

All public auctions for use permits at the Ala Wai boat harbor shall be held at the Ala Wai boat harbor and be conducted by the chairperson or any authorized employee of the department under the direction of the board, all of whom shall perform this service without additional compensation. Any use permit obtained pursuant to this subsection shall be valid for two years.]

Thank you for the opportunity to comment on this measure.

SB-2286

Submitted on: 1/28/2018 10:50:17 AM

Testimony for WTL on 1/31/2018 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Benton Kealii Pang, Ph.D.	Hawaiian Civic Club of Honolulu	Support	No

Comments:

SB-2286

Submitted on: 1/29/2018 1:11:34 PM

Testimony for WTL on 1/31/2018 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Quicksilver Charters	Oppose	No

Comments:

SB 2286 Eliminates Incentive for Companies to Invest and Reinvest in Their Businesses. Auctioning permits every 2 years creates an unpredictable system that would discourage companies from investing (and reinvesting) in their employees, their brand and most importantly, their local communities. 2 year increments do not provide enough time for structuring and operating a successful business. Business owners would have no predictability. For example, if a boat permit is auctioned to the highest bidder after 2 years, the company losing the permit can't just move its employees to the building next door.

SB 2286 is a Safety Risk. Long term, stable and experienced captains and crewmembers are essential to safe operation of a vessel. Some crewmembers and captains just begin to fully understand charter boat operations (and the intricacies of a vessel) after 1-2 years. Firing and laying off these critical members of a charter boat fleet every 2 years is a huge safety concern. This bill encourages a less experienced, but better funded, company from taking over permits.

SB 2286 Discourages Long-Term Employments. Hawaii's maritime trade is essential to its economy. If every 2 years charter boats didn't know if they would be operating with a small boat harbor permit, the employees of the charter boat would have no predictability. Employee turnover would be rampant. Also, long-term, stable employment is essential to a happy workforce.

Also, if an existing operation loses at the auction, what will happen to the employees hired six months prior to the auction that the company has invested time in training? Will companies even bother to invest in training able-bodied crewmembers?

SB 2286 Will Destroy Businesses and Eliminate Steady Jobs. For those companies that currently operate in Ala Wai, this bill could destroy long-standing business investments.

SB-2286

Submitted on: 1/29/2018 1:17:18 PM

Testimony for WTL on 1/31/2018 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Kasper	Calypso Charters	Oppose	No

Comments:

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SB 2286 Discourages Long-Term Employments. Hawaii's maritime trade is essential to its economy. If every 2 years charter boats didn't know if they would be operating with a small boat harbor permit, the employees of the charter boat would have no predictability. Employee turnover would be rampant. Also, long-term, stable employment is essential to a happy workforce.

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SB 2286 Will Destroy Businesses. For those companies that currently operate in Ala Wai, this bill could destroy long-standing business investments.



COMMITTEE ON WATER AND LAND

Senator Karl Rhoads, Chair

Senator Mike Gabbard, Vice Chair

DATE: Wednesday, January 31, 2018

TIME: 2:45 p.m.

PLACE: Conference Room 224

**TESTIMONY OF THE OCEAN TOURISM COALITION SPEAKING
IN STRONG OPPOSITION TO SB2286: Public Auction of Ala Wai
Permits**

Dear Senator Rhoads, Chair; Senator Gabbard, Vice Chair:

My name is James E. Coon, President of the Ocean Tourism Coalition (OTC), **speaking in Strong Opposition to SB2286** proposing to Auction Permits at Ala Wai Small Boat Harbor.

The OTC represents over 300 small ocean tourism businesses state wide. Most of these are family businesses which are locally owned and operated. Many of them have been in business for several decades and are an important and valued part of their respective communities. Most of these businesses operate from State Boating Facilities.

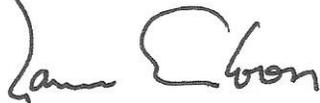
There is a long standing protocol for how permits are issued in Small Boat Harbors and Boating Facilities across the State of Hawaii. An individual puts their name on a waiting list, continues to renew it each year until all the names ahead of them on the list have been satisfied at that point if a slip/permit comes available that person has first right of refusal for that slip/permit. These permits must be reapplied for each year and are good for no longer than 12 months. If the permittee is in violation of any Federal, State, or County rules they may be denied their permit and it would go to the next person in line.

To Auction off these long standing permits to the highest bidder would first of all create a massive hardship for the current permit/slip holder. These slip/permit holders own vessels which occupy the slip. For them to lose the slip by being outbid by some other entity would immediately put them in the untenable position of having a vessel with no place to moor it. It is very difficult even to sell a vessel that has no berth. It also would put the new slip/permit owner in a precarious position in that they only have a two year window in which to have the reasonable expectation of occupying that slip/permit and could very well find themselves in the same untenable position as the former slip owner two years later.

The current system of permit/slip acquisition may not be perfect, but it is fair and reasonable and gives stability to our harbors and slip/permit owners having the reasonable expectation that if they keep all Federal, State and County laws they will be able to keep their vessel in the slip for another year.

We humbly ask you to please not pass this ill-conceived measure which would hurt so many people and seem to help only the rich few.

Sincerely,



James E. Coon, President OTC

Captcoon@gmail.com

808-870-9115

TERALANI SAILING ADVENTURES
PO BOX 12247, LAHAINA HI 96761
TERALANI.NET

COMMITTEE ON WATER AND LAND

Senator Karl Rhodes Chair
Senator Mike Gabbard Vice Chair

DATE: Wednesday January 31
TIME 2:45 pm
PLACE: Conference Room 224

TESTIMONY IN STRONG OPPOSITION TO SB2286 Public Auction of Ala Wai Permits.

Dear Senator Rhodes, Chair and Senator Gabbard, Vice Chair:

My name is David Weiss, Executive Vice President of Teralani Sailing Charters on Maui, a family owned business operating from Kaanapali Beach since 1997. Please find support of our position below.

SB 2286 Eliminates Incentive for Companies to Invest and Reinvest in Their Businesses

Auctioning permits every 2 years creates an unpredictable system that would discourage companies from investing (and reinvesting) in their employees, their brand and most importantly, their local communities. 2 year increments do not provide enough time for structuring and operating a successful business. Business owners would have no predictability. For example, if a boat permit is auctioned to the highest bidder after 2 years, the company losing the permit can't just move its employees to the building next door.

SB 2286 is a Safety Risk

Long term, stable and experienced captains and crewmembers are essential to safe operation of a vessel. Some crewmembers and captains just begin to fully understand charter boat operations (and the intricacies of a vessel) after 1-2 years. Firing and laying off these critical members of a charter boat fleet every 2 years is a huge safety concern. This bill encourages a less experienced, but better funded, company from taking over permits.

SB 2286 Discourages Long-Term Employments

Hawaii's maritime trade is essential to its economy. If every 2 years charter boats didn't know if they would be operating with a small boat harbor permit, the employees of the charter boat would have no predictability. Employee turnover would be rampant. Also, long-term, stable employment is essential to a happy workforce.

Also, if an existing operation loses at the auction, what will happen to the employees hired six months prior to the auction that the company has invested time in training? Will companies even bother to invest in training able-bodied crewmembers?

SB 2286 Will Destroy Businesses and Eliminate Steady Jobs

For those companies that currently operate in Ala Wai, this bill could destroy long-standing business investments.

Mahalo for your time and consideration,

Davis Weiss
Executive Vice President
Teralani Sailing Adventures

