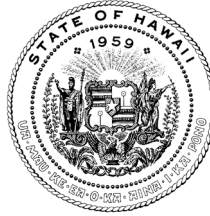


DAVID Y. IGE
GOVERNOR OF HAWAII



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, February 17, 2021
1:00 P.M.

State Capitol, Via Videoconference, Conference Room 229

In consideration of
SENATE BILL 795
RELATING TO STATE SMALL BOAT HARBOR FEES

Senate Bill 795 proposes to amend the various fees the Department of Land and Natural Resources (Department) may charge for the usage of state small boat harbors and amends the manner in which those fees are applied. **The Department strongly supports this measure.**

The Department's Division of Boating and Ocean Recreation has identified approximately \$300 million in deferred maintenance at small boat harbors and boating facilities statewide. Being able to assess fair market value at small boat harbors and boating facilities will allow DOBOR to maximize its revenue generating potential and perform much needed repairs and maintenance on these facilities.

This measure will also add the option to charge a commercial fee per passenger carried for hire, which would allow the Department to collect appropriate fee amounts in the event that an operator attempts to circumvent the gross receipt collection method.

An increase in fees collected under Section 200-10, Hawaii Revised Statutes, would go toward funding upgrades to state small boat harbor facilities resulting in improved sanitation, maintenance, and cleanliness of the small boat harbor facilities.

Thank you for the opportunity to comment on this measure.

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

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
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



THE SENATE
THE THIRTY-FIRST LEGISLATURE
REGULAR SESSION OF 2021

COMMITTEE ON WATER AND LAND
Senator Lorraine R. Inouye, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

NOTICE OF HEARING

DATE: Wednesday, February 17, 2021
TIME: 1:00 PM
PLACE: Conference Room 229 & Videoconference

**TESTIMONY OF THE OCEAN TOURISM COALITION IN STRONG
OPPOSITION TO SB795.**

Dear Chair Inouye and Vice Chair Kieth-Agaran:

The Ocean Tourism Coalition (“OTC”) represents over 300 ocean tourism businesses statewide. OTC is strongly opposed to SB795 (the “Bill”) for the following reasons:

- 1. The \$3 per passenger fee will be far greater than 3% of gross receipts for a large number of operators who are struggling to survive.**

A \$3 per passenger fee (Section 2, subsection (c)(5)(B)) is only reasonable if the average ticket price for an ocean-based tour (e.g., whale watches, snorkel sails, dinner cruises, etc.) is \$100, as this would be the equivalent to 3% of gross receipts. However, the average ticket price (particularly after commissions) for many operators is less than \$100. A major factor in this equation is that the ocean tourism industry is a family-oriented industry. So while a quick internet search might show several tours over \$100, a closer look would show that kids are often heavily discounted. As a result, a \$3 per passenger fee would lead to a huge increase in fees paid to the State, especially for many small operators and family-oriented businesses whose tours sell for under \$100.

This potential increase in fees is combined with the current COVID-19 economy and restrictions on local businesses. The majority of boat operators are currently limited to 50% passenger capacity and are discounting their tours as a way to attract visitors. As a result, operators are taking fewer passengers for far less money. A \$3 per passenger fee could have a significant financial impact that many operators cannot bear at this time.

In addition, there are many operators who offer deeply discounted trips as a way of doing charity and benefit events. For example, a company may only charge \$15 a ticket to get people to come help clean up the reef at a popular snorkel site. A 3% fee is \$.45, but a \$3 fee is now 20% of the ticket price. As a result, companies will face a major disincentive to helping their local communities.

OTC is unsure of the State's reasoning for the \$3 per passenger fee or the problem it is attempting to solve. A 3% gross receipts fee seems to be a fair rule (i.e., you make more, you pay more) that does not have the same adverse and disproportionate impact on smaller operators as the \$3 per passenger fee will.

2. There is no recourse for harbor users to dispute the fees established by appraisal.

The Bill currently states that "all fees established by appraisal pursuant to this subsection shall be set at fair market value" (Section 2, subsection (c)(7)). While fair market value sounds reasonable, that is simply not always the case. Multiple appraisals often come back with very different numbers. As a result, purchasers and lessors typically have a right to dispute an appraisal by hiring their own appraiser. An example of this is found in HRS § 171-17(b)(2), whereby if the purchaser or lessor of public land does not agree with the appraisal price they may "appoint an appraiser who shall conduct an appraisal on behalf of the purchaser."

This Bill assumes that "fair market value" is actually and always fair market value. However, one bad or unjustifiably high appraisal can have devastating effects on both recreational and commercial harbor users with little recourse. Accordingly, OTC believes that if rates were to be established by an appraiser, harbor users should have the right to counter any rates that they believe are not fair market value just like in HRS § 171-17(b)(2). Otherwise, the department will have *carte blanche* to raise rates without any recourse for the users.

Please do not pass SB795, as it would likely hurt many more than it will help.

Sincerely,

Denver S. Coon, Director, OTC

SB-795

Submitted on: 2/15/2021 2:18:24 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kristie Wrigglesworth	Testifying for PacWhale Eco-Adventures	Oppose	No

Comments:

PacWhale Eco-Adventures Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB795

SB-795

Submitted on: 2/15/2021 2:22:48 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kevin Ford	Testifying for Maui Classic Charters	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Strongly Opposes SB795.

SB-795

Submitted on: 2/15/2021 8:22:13 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Peter Wood	Testifying for Sailing Maui Inc. Kapalua Kai Sailing Inc. Crystal Seahorse Ltd	Oppose	No

Comments:

To Whom it May Concern,

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB79.

We appreciate the opportunity testify in opposition of this bill being passed.

Thank You,

Peter Wood - VP. Treasurer - Sect.

Inca Robbin - President

SB-795

Submitted on: 2/16/2021 8:24:09 AM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James E. Coon	Testifying for Trilogy Excursions	Oppose	No

Comments:

We are opposed to SB 795 as written and agree with the OTC Testimony in opposition. \$3.00 impacts every company that offers rates less than \$100 per head. This would represent a 50% fee increase on a \$50 fare. This would impact family rates, kamaaina rates, charity rates and most small operators. Currently most companies are discounting rates to survive this would make it even more difficult. Also all fee appraisals should be done under: HRS 171-17(b)(2)

SB-795

Submitted on: 2/16/2021 9:15:27 AM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Kersten	Testifying for Sea Paradise Scuba Inc.	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB795

SB-795

Submitted on: 2/16/2021 12:19:45 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Zachary LaPrade	Testifying for Calypso Charters	Oppose	No

Comments:

Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Strongly Opposes SB795.

SB-795

Submitted on: 2/16/2021 12:57:58 PM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jeff Strahn	Testifying for Alii Nui Charters	Oppose	No

Comments:

We are strongly opposed to SB795. This is not a time to try and raise fees on commercial operators. Let's focus on bring back the tourist industry not taxing it more.

Thanks,

Jeff Strahn

SB-795

Submitted on: 2/16/2021 5:16:39 AM

Testimony for WTL on 2/17/2021 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Daniel Peavy	Individual	Oppose	No

Comments:

This will be a real hike in fees, plus a complete accounting nightmare. We are struggling to even keep our staff employed, let alone adding the expense and time for this change.

“Our Company Agrees with the Testimony of the Ocean Tourism Coalition and Opposes SB795”