

JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA



STATE OF HAWAI'I | KA MOKU'ĀINA 'O HAWAI'I
DEPARTMENT OF LAND AND NATURAL RESOURCES
KA 'OIHANA KUMUWAIWAI 'ĀINA

P.O. BOX 621
HONOLULU, HAWAII 96809

**Testimony of
DAWN N.S. CHANG
Chairperson**

**Before the House Committee on
FINANCE**

**Tuesday, February 28, 2023
10:00 A.M.
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 1089, HOUSE DRAFT 1
RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM**

House Bill 1089, House Draft 1 proposes to establish a state boating facility lease pilot program within the Department of Land and Natural Resources (Department) and clarify that a private partner under lease or contract with the Department may assist with development, management, and maintenance of a state small boat harbor. **The Department strongly supports this measure.**

The COVID-19 pandemic has shed light onto the fact that the Department, as a state agency, does not have the flexibility and capacity to adapt business operations in a timely manner based on rapidly changing market conditions. During the height of the COVID-19 pandemic, the Department was put on a hiring freeze, limitations were placed on spending, budget reductions were implemented, and as a result, services to the boating and general public were greatly reduced. Having the option of working with the private sector would have eliminated these issues because a private partner would not have to operate under the same restrictions that hindered the Department.

The Department currently has two harbor facilities on O'ahu that are under a public-private partnership: La Mariana Sailing Club (LMSC) and Ke'ehi Marine Center (KMC). The Department is requesting this measure so that it can pilot the same management model as LMSC and KMC in a state small boat harbor with the intent that the program be expanded statewide if it is successful.

The Department notes two common misconceptions among critics to the management model proposed by this measure: (1) private management would lead to exorbitantly high mooring fee rates; and (2) private management would lead to the transfer of state lands under public trust to the private sector. The Department clarifies that: (1) the authority and method for determining

DAWN N.S. CHANG
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

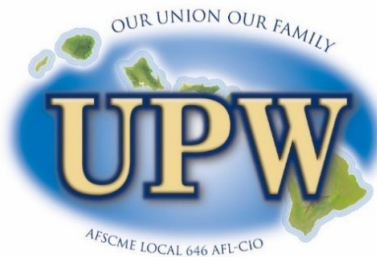
LAURA H.E. KAAKUA
FIRST DEPUTY

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

fees remains unchanged, where the Department will set fees pursuant to Section 200-10, Hawaii Revised Statutes, with the Board of Land and Natural Resources maintaining authority for approval of any proposed fee increases; and (2) this measure will not authorize any sale or transfer of state lands and only proposes to allow a lease of one or more small boat harbors and associated submerged lands in the state to attract private partners who plan to make improvements and improve the state small boat harbor facilities. The Department has no plans for any sale of state lands and will only offer leases as part of a public-private partnership model.

Mahalo for the opportunity to provide testimony in strong support of this measure.



**HOUSE OF REPRESENTATIVES
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2023**

Committee on Finance
Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair

Tuesday, February 28, 2023, 10:00 AM
Conference Room 308 and via Videoconference

Re: Testimony in OPPOSITION of HB1089, HD1 – RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee:

The United Public Workers, AFSCME Local 646, AFL-CIO (“UPW”) is the exclusive bargaining representative for approximately 14,000 public employees, which includes blue collar, non-supervisory employees in Bargaining Unit 1 and institutional, health, and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents 1,500 members in the private sector.

UPW **strongly opposes** HB1089, HD1, which establishes a state boating facility lease pilot program within the Department of Land and Natural Resources (“Department”). This bill also clarifies that a private partner under lease or contract with the Department may assist with development, management, and maintenance of a state small boat harbor.

UPW has a number of concerns with this measure. Section 1 of this bill seeks to amend Section 76-16, Hawaii Revised Statutes, subsection (b) to exclude employees of a yet to be determined lessee from civil service. Our greatest concern is that the proposed language of Section 1 will be used to eliminate positions that currently exist within the Division of Boating and Ocean Recreation (DOBOR). While Section 4 of the bill offers to preserve the civil service rights of reassigned DOBOR employees, this proposal is silent on preserving vacant positions.

We would also like to note that pilot programs are typically limited in scope. HB1089 provides the Department with the ability to lease any “state boating facility”, as defined in the bill, without legislative approval. UPW sees this as an attempt to expand the Department’s authority to privatize State-owned facilities beyond the 20-year duration of the pilot program. Furthermore, we believe that the privatization of a State-owned facility as large as an entire small boat harbor should require the approval of the Legislature.

Thank you for the opportunity to provide testimony in opposition to this measure.

Sincerely,

Kalani Werner
State Director



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION

AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808 543.0011 • Fax: 808.528 0922

The Thirty-Second Legislature, State of Hawaii
House of Representatives
Committee on Finance

Testimony by
Hawaii Government Employees Association

February 28, 2023

H.B. 1089, H.D. 1 –RELATING TO A STATE BOATING
FACILITY LEASE PROGRAM

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of H.B. 1089, H.D. 1 which establishes a state boating facility lease pilot program. The proposed measure would allow the Board of Land and Natural Resources to lease one small boat harbor in its entirety and allow a private partner under lease or contract to assist the Department with development, management, and operation of a small boat harbor.

The HGEA represents employees at small boat harbors across the state. This measure will displace civil service employees in our respective bargaining units, who currently provide valuable services to these small boat harbors. If a private entity developed, managed, and operated a state-owned small boat harbor, this public-private partnership would go against civil service and the merit principal, where private entities are performing duties that have been traditionally performed by public servants. Civil service work should be performed by civil servants.

If the justification of this bill is to preserve coastal resources and provide a method of timely maintenance, then providing more support to our current civil service system must be considered prior to moving to private partnerships.

Thank you for the opportunity to testify in opposition of H.B. 1089, H.D. 1.

Respectfully submitted,

Randy Perreira
Executive Director

**Testimony of
SCOTT F. ALLEN**

**Before the House Committee on
WATER & LAND**

**Tuesday, February 27, 2023
10:00 A.M.**

State Capitol, Conference Room 308

**In consideration of
HOUSE BILL 1089
RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM**

I work as an economic planner at the State Office of Planning and Sustainable Development. I have a Master's Degree in Urban and Regional Planning and am a current PhD student at UH Manoa. As a resident of Hawaii's harbor system for over a decade now, **I strongly oppose HB 1089.**

My opposition to this bill grows out of two primary concerns: the first being the lack of clear need for this pilot and the second being lack of clarity on reporting of pilot performance.

In regard to the first concern, DLNR's public testimony for the Water and Land Committee indicated the following:

*"The Department currently has two harbor facilities on O'ahu that are under a public-private partnership: La Mariana Sailing Club (LMSC) and Ke'ehi Marine Center (KMC). **The Department is requesting this measure so that it can pilot the same management model as LMSC and KMC in a state small boat harbor with the intent that the program be expanded statewide if it is successful.**"*

Given the existence of two other harbor facilities operating under the same management model as what DLNR is proposing, there would appear to be no need to "pilot" a third. The two existing models should provide enough longitudinal data to evaluate their performance.

The evaluation of their performance leads me to my second concern: DLNR proposes to self-report to the legislature on findings and recommendations from the pilot program without offering metrics for how successes or failures would be determined. If the model is truly meant to be a partnership between public and private entities, these metrics should be determined ahead of considering other pilot programs—or the expansion of existing programs—and crafted alongside the harbor community to ensure reporting reflects the best interest of all users, including those who call the harbors home.

Mahalo for the opportunity to provide testimony in strong opposition of this measure.

An open testimony

(Note: This testimony has been published on the Hawaii Ocean News website so that all of Hawaii might be aware of its existence.)

Regarding [HB1089](#) (companion: [SB1387](#)):

RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM

Testimony submitted by:

Katherine Lindell
Honolulu, Hawaii
Katherine@HawaiiOceanNews.com

On: February 27, 2023, @ 11AM

Testimony

A WARNING TO:

[Micah P.K. Aiu](#)

[Cory M. Chun](#)

[Elle Cochran](#)

[Andrew Takuya Garrett](#)

[Kirstin Kahaloa](#)

[Darius K. Kila](#)

[Bertrand Kobayashi](#)

[Rachele F. Lamosao](#)

[Dee Morikawa](#)

[Scott Y. Nishimoto](#)

[Mahina Poepoe](#)

[Jenna Takenouchi](#)

[David Alcos III](#)

[Gene Ward](#)

[Yamashita, Kyle T.](#)

[Kitagawa, Lisa](#)

THIS BILL IS UNCONSTITUTIONAL IN ITS PRESENT FORM . . .
REARRANGING THE WORDING IN THIS BILL DOES NOT CHANGE THE
WAY IN WHICH IT VIOLATES THE STATE'S CONSTITUTION; TO PROCEED
WITH THIS BILL IN ITS PRESENT FORM IS A SLAP IN THE FACE TO EVERY
RESIDENT IN OUR STATE AS WELL AS OUR FOREFATHERS WHO
AUTHORED HAWAII'S STATE CONSTITUTION

1) Unconstitutional Component

Firstly: The composition of SB1387 (companion: HB1089) constitutes [a clear violation of Hawaii's State Constitution](#): the agenda items contained therein, shoehorned together in this same bill, are mutually exclusive, in violation of the state's constitution ([Article 3, section 14](#)). Allowing this bill to proceed through the legislature in its present form snubs the foundational laws of this state and is a slap in the face to the people of Hawaii. **Clearly, all you're doing is attempting to attract more interest among legislators via an unconstitutional subterfuge.**

2) Failure to Disclose Introducers

Secondly: in any open and honest government, all introducers of any piece of legislation will be disclosed. Why are the introducers of this bill being hidden? Who are they? Why are they hiding or being hidden? Some have already suggested that the hidden introducers are part of the governor's "inner circle" and that this is nothing more than a piece of legislation purpose-built by the governor himself. If that's true, this represents an ethical violation that must be rectified.

You have an obligation to clarify all of this to the public before moving forward with this bill.

3) Advisory Board Requirement

Thirdly: The privatization of publicly owned properties is a radical alteration of intended use of any public facility. As such, a precursor to such a change must

include a board or advisory council made up of the affected public. *The latter needs to be completed and operational first.* This cannot be the “gutted” version of a board/advisory committee suggested by [HB422](#), but rather, a fully functioning board that is looked to for advice regarding changes to and the operation of the affected public properties.

4) Legal Irregularities

Fourthly: There are legal irregularities that are currently taking place, ongoing, in the administration of the public’s marina system that must be resolved first, before moving forward with this bill.

To wit:

1) An ongoing DoBOR-sanctioned administrative procedure that has taken thousands of dollars from hopeful principal habitation permittees, while denying them access to the very same privilege that they had signed up and paid for. The State needs to be reminded, once again, that the exchange of money from one hand to another constitutes a contract. The State is currently renegeing on that contract in real time and over a protracted period of time. This constitutes fraud.

2) The arbitrary and capricious valuation of floating pier electrical usage charges, in it’s current form, constitutes fraud.

5) Inconsistent with Intended Use

Fifthly: Hawaii’s public harbors are publicly owned properties that allow all of our residents to enjoy recreational boating, regardless of income status. By privatizing our harbors – or any public entity – the for-profit model that the lessee intends will, by default, not be consistent with the public model that was intended by our forefathers.

The notion of a so-called “public-private” partnership is, as you well know, a subterfuge intended to misrepresent the introducers’ true agenda. This is unacceptable lawmaking except in third-world banana republics where anything goes.

Please do the right thing and reject this piece of legislation at the very first opportunity.

Katherine Lindell
Honolulu, Hawaii

HOUSE OF REPRESENTATIVES
THE THIRTY-SECOND LEGISLATURE
REGULAR SESSION OF 2023

COMMITTEE ON FINANCE

Rep. Kyle T. Yamashita, Chair
Rep. Lisa Kitagawa, Vice Chair

Rep. Micah P.K. Aiu	Rep. Rachele F. Lamosao
Rep. Cory M. Chun	Rep. Dee Morikawa
Rep. Elle Cochran	Rep. Scott Y. Nishimoto
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Rep. Kirstin Kahaloa	Rep. Jenna Takenouchi
Rep. Darius K. Kila	Rep. David Alcos III
Rep. Bertrand Kobayashi	Rep. Gene Ward

NOTICE OF HEARING

DATE: Tuesday, February 28, 2023
TIME: 10:00 a.m.
PLACE: VIA VIDEOCONFERENCE
Conference Room 308
State Capitol
415 South Beretania Street

Testimony of Erik A. Rask

In 2019, the DOBOR secretly gave legislators its “2019 Strategic Plan” which states:

The Plan entails achieving balance between boating and ocean recreation mandates by allocating more resources to developing excellent and effective ocean recreation management while continuing to streamline *core boating functions*. The division aims to establish a robust public private partnership-based system statewide to transform its recreational harbors into world-class marinas that meet the needs of millions of residents and visitors. At the same time, optimization enabled by public-private partnerships will free DOBOR staff to provide much-needed safety, education and enforcement for the State’s ocean enthusiasts.

2019 Strategic Plan, at 12 (emphasis added). This begs the question: what specifically, are the purported “*core boating functions*” of DOBOR, other than to competently manage harbors. The answers that DOBOR offers in the Plan—“safety, education and enforcement”—are vague at best. The core boating function of DOBOR is to *manage and upkeep harbors*. DOBOR has failed to perform this core function for decades since taking over from DOT in 1991. DOBOR should not be given more power than it has, and should remain “DOBOR is prohibited from privatizing by selling its assets by State law.” See Plan at 13.

While I support of efforts to improve Hawai‘i harbors, even via a public/private partnership model, I strongly OPPOSE this legislation because of DOBOR’s track record and the lack of transparency and honesty in DOBOR’s efforts to hand over treasured public lands to private corporations. Thank you for considering this testimony.

Modernizing Ocean Recreation Management in Hawai`i

Strategic Action Plan - 2019

Department of Land
and Natural Resources

Division of Boating
and Ocean Recreation



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Message from the Administrator

When I assumed control over the Department of Land and Natural Resources' Division of Boating and Ocean Recreation (DOBOR) in 2007, I immediately made changes to improve its service and efficiency. At first the changes were incremental. In recent years the changes have grown in scope, influence, and impact to address statewide issues and needs.

Now I feel it is time for the most sweeping, significant set of changes we have ever pursued, which will change the entire character of DOBOR. This strategic plan lays out an ambitious course we have chosen for the foreseeable future. There are opportunities for everyone to play a part in the transformation about to take place. We invite you to join us in partnership.

So, to offer a preview of what is to follow, the Division of Boating and Ocean Recreation (DOBOR) proposes a win-win strategy to ensure that the small boat harbors are operated at their maximum potential and at the same time dedicate much needed staff and resources to the coastal areas program.

As the popularity of ocean recreation has grown, so too has the need to ensure the safety of users. In recent years, boating accidents have decreased nationwide, accidents involving ocean-based activities, such as paddle sports, have increased. Hawai'i is not an exception to this national trend.

In order to provide state-of-the-art services to our ocean enthusiast and recreational boating communities, DOBOR must devote greater attention to managing ocean recreation. This is a shift that demands a new, multifaceted, responsive

strategy. The division's first strategic action plan is an effort that will help make the transition over the next five years towards managing ocean recreation more efficiently and effectively. The plan confronts challenges to making this vital shift and lays out the critical actions DOBOR will take to achieve its goal. We welcome input and discussion as we implement this strategic plan.

Each year, progress towards our goal will be measured and evaluated. The strategic plan will help the division prioritize achievable and specific tasks that contribute to the strategic objectives. In this way, we plan to make ocean recreation in Hawai'i, in a myriad of forms, safe and enjoyable for all.



Edward R. Underwood
Administrator
Division of Boating and Ocean Recreation
Department of Land and Natural Resources

DOBOR's strategic plan advocates a public-private partnership (PPP) approach to harbor management. The plan is divided into three sections: The introductory section presents a brief overview and history of DOBOR, the current state of the division, and an overview of the strategic plan. The following section, "Where We Are Going," provides a closer look at the public-private partnership strategy and how it would enable the division to achieve key goals. Finally, the third section, "The Roadmap to Getting There," lays out the path to implementation.

The Early Years

During the 1991 legislative session, via Act 272, Session Laws of Hawai‘i, the Legislature transferred the boating and coastal areas program from the Department of Transportation (DOT) to the Department of Land and Natural Resources (DLNR). Out of necessity, the Division of Boating and Ocean Recreation (DOBOR) was born within DLNR.

DOBOR was made responsible for regulating recreational and commercial use of State small boat harbors, moorings, and facilities as well as most activities occurring in and on State waters. DOBOR’s regulatory scope covers a wide range of ocean-related matters, from issuance of use permits for harbors and ocean recreation management areas to regulation of ocean activities, such as diving, kayaking, surfing, and jet skiing. These governmental regulatory functions are contained in thirteen mandates (Hawai‘i Revised Statutes §200-3), which act as guidelines for serving the State:

1. Managing and administering the ocean-based recreation and coastal areas programs of the State;
2. Planning, developing, operating, administering, and maintaining small boat harbors, launching ramps, and other boating facilities and associated aids to navigation throughout the State;
3. Developing and administering an ocean recreation management plan;
4. Administering and operating a vessel registration system for the State;
5. Regulating the commercial use of State waters and marine resources, including operations originating from private marinas;
6. Regulating boat regattas and other ocean water events;
7. Administering a marine casualty and investigation program;
8. Assisting in abating air, water, and noise pollution;
9. Conducting public education in boating safety;
10. Administering the boating special fund;
11. Assisting in controlling shoreline erosion;
12. Repairing seawalls and other existing coastal protective structures under the jurisdiction of the State; and
13. Removing non-natural obstructions and public safety hazards from the shoreline, navigable streams, harbors, channels, and coastal areas of the State.

DOBOR operations have been funded primarily by the Boating Special Fund. The Boating Special Fund was established by the Hawai‘i State Legislature in the early 1970s. The sources of revenue for the Boating Special Fund include harbor fees, mooring fees, commercial fees, a portion of the State’s fuel tax, and lease rent from property under DOBOR’s jurisdiction. DOBOR also receives a federal grant through the U.S. Coast Guard (USCG) for the State’s boating safety campaign. The federal funds are a 50/50 match. Capital improvement projects are funded through bonds authorized by the Legislature when possible.

At the time of the division’s transfer from DOT to DLNR, there was approximately \$300 million dollars in deferred maintenance in the recreational small boat harbors, launch ramps, and other related facilities. Some progress has been made, but this list continues to grow as the facilities age.

The management and operation of the State’s boating facilities is only one of the thirteen mandates associated with the boating and coastal areas program. Running small boat harbors has always consumed the majority of DOBOR’s personnel hours and resources, yet the thirteen statutory mandates require an equal allocation of resources between boating and ocean recreation management.

Where We Are Now

Revenue generated through DOBOR's funding sources, has never been sufficient to keep pace with ever-increasing demands for maintenance and services.

Ala Wai Small Boat Harbor has undergone substantial improvements since DLNR assumed management. But it is always in need of repairs and maintenance. The waters of the harbor also collect marine debris from the densely populated community. Damaged infrastructure and polluted waters detract greatly from the harbor's appeal. Situated in a key tourism area, it could offer more to Hawai'i's people and visitors.

The Ala Wai Small Boat Harbor is just one example of a State small boat harbor that can be better managed in order to protect the resource sustainably and serve the people of Hawai'i. Situated near Ala Moana Center, a premier retail complex that draws 48 million shopping visitations annually, the Ala Wai should offer safe and aesthetically pleasing facilities. Yet, the harbor languishes in disrepair.

Although the Ala Wai stands out as the highest net income-generating harbor, its earning potential remains untapped. Like other State harbors, the harbor itself underperforms in revenue; it is the parking revenues that account for Ala Wai Small Boat Harbor's comparative "success." Transforming the facility requires a revision of management strategy to enable the asset to generate greater revenues, a change that is possible through public-private partnerships.



At the core of the problem lies an inefficient harbor management model. Although harbor management represents just a single statutory mandate, it depletes a disproportionate share of DOBOR's personnel resources. Furthermore, investing substantial funds and staff into the harbors has not produced a commensurate return.

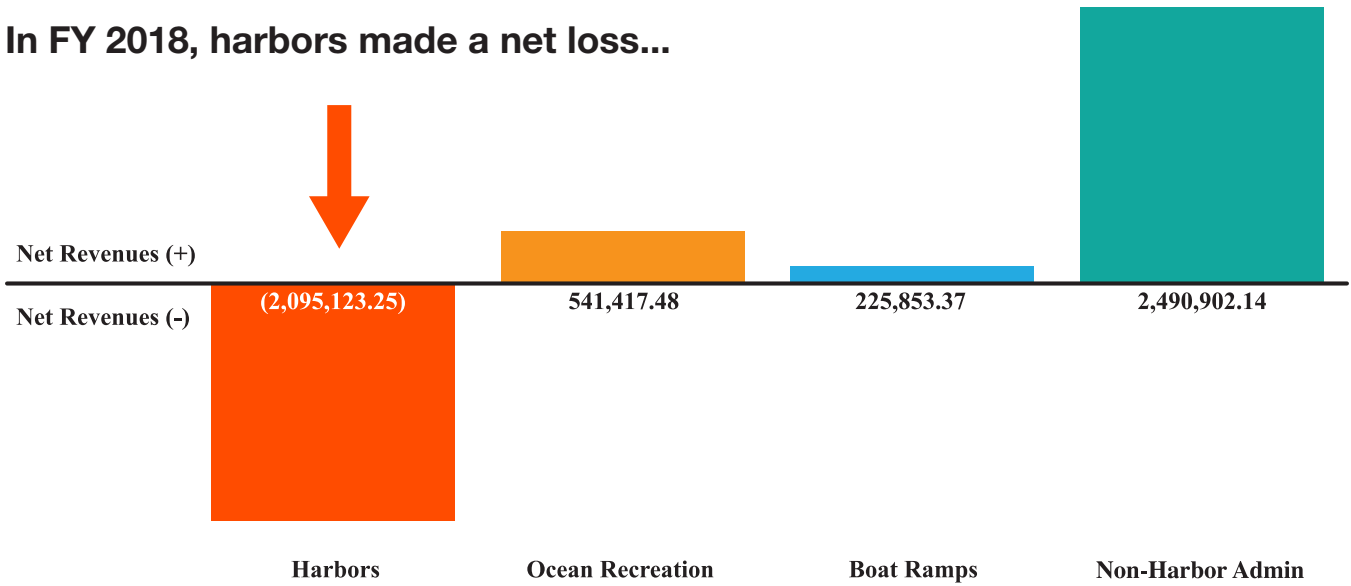
Revenue generated by the harbors does not even begin to offset management and maintenance costs. For the past several years, harbor management as a whole operated at a net loss. In fiscal year (FY) 2018, for example, Hawai'i's small boat harbors incurred a net loss of nearly \$2 million while consuming 69% of staff resources.

In fact, over the past five years, an average of as much as 84.2% of staff resources were allocated towards harbor management.

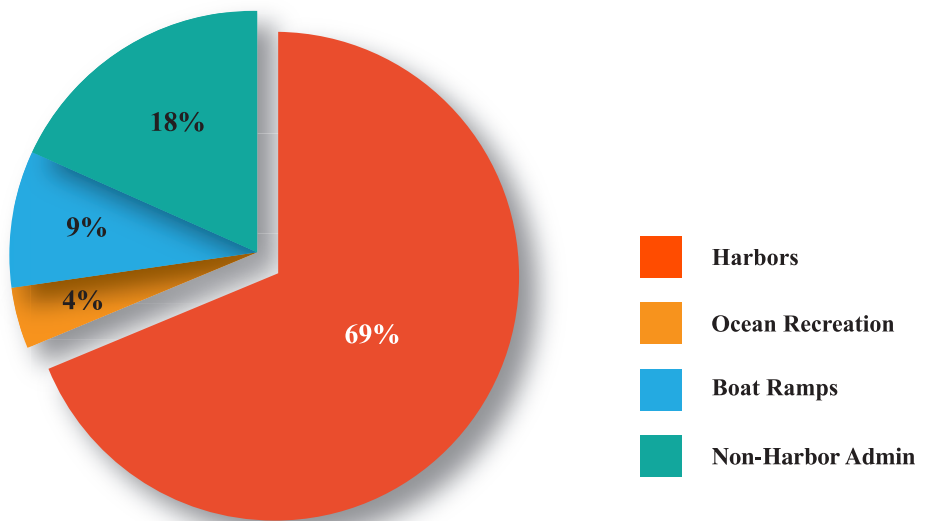
This drain on staff and funding underlies root causes of the division's inability to adequately execute its statutory mandates.

The coastal areas program has grown immensely over the years, continually adding to DOBOR's list of responsibilities even though DOBOR has no dedicated staff or dedicated funding to address this mandate.

In FY 2018, harbors made a net loss...



... Yet consumed most of staff resources



Staff Resources

Correcting Course

In Hawai‘i, on every island, we are never more than an hour from the ocean. Hawai‘i’s residents and more than nine million visitors each year use the nearshore waters for swimming, recreational fishing, surfing, snorkeling and more. Our boating community is small but diverse. Our nearshore waters are rich with marine life. Above and below the water, and on the shores, millions of people use and enjoy Hawai‘i’s oceans. Almost monthly, a new type of device is being introduced to our waters or an already present device is being used in a different way. But the boom in ocean recreation, the weather, and Hawai‘i’s landscape and culture - the engine that keeps Hawai‘i’s economy healthy - does not result in a windfall in funding for DLNR or DOBOR.

By seizing opportunities and changing the way it does business, DOBOR has slowly adapted and evolved. By 2019, with good leadership, DOBOR has built a financial base to meet many, but not all, of its needs. This is quite an achievement in itself, taking into account DOBOR’s history and origins, but that is only a small piece of the puzzle compared with what is to come. The management model that DOBOR inherited at its inception does not allow the division to fulfill its statutory mandates and meet its needs – it was and continues to be a system that shackles the division. But, this failing system also presents a challenge and an opportunity to embrace change.



Strategic Plan Overview

In the absence of increased funding and staff, DOBOR is working smarter, and more efficiently, to fulfill its mandates and reach its potential. *The division is proposing to shift to public-private partnership small boat harbor management, moving staff away from day-to-day direct harbor management, allowing staff to prioritize the exclusive governmental functions of ocean recreation management, rulemaking, oversight, and enforcement.* To do this, DOBOR has developed a Strategic Plan for modernizing and revitalizing Ocean Recreation Management in Hawai‘i.

The plan will:

- Serve as a forward-looking roadmap that will guide DOBOR in developing an effective management model, sustainably managing the State’s assets, and protecting the natural resources in the face of a growing visitor economy and changing environment.
- Communicate DOBOR’s strategic priorities to decision-makers, staff, and partners effectively, so that they can gain a clear understanding of these priorities and can assist with implementation efforts.
- Identify strategic plan priorities in the State’s annual budget for DOBOR and DLNR.
- Detail a critical shift in management practices and philosophy that will help DOBOR fulfill its intended purpose.

Strategic Plan Direction

The strategic plan presents a future-oriented vision for the division: to modernize and revitalize *ocean recreation management* in Hawai‘i through a strategic redesign of DOBOR’s system for small boat harbor, staff, resource, and asset management.

DOBOR’s vision is aligned with its mission and calls for a shift away from its current practice of directly managing harbors achieved through a public-private partnership (PPP) asset management strategy. The PPP approach is a proven model that has demonstrated success for harbors in almost every other jurisdiction in the nation. This shift will allow DOBOR to execute its State functions more effectively and facilitate efforts to accomplish three main goals:

Goal 1: Expand ocean recreation management to meet DOBOR’s statutory mandate

Ocean recreation plays a substantial role in Hawai‘i’s economy, community, and culture. DOBOR needs to balance its focus between boating and ocean recreation management by shifting greater attention towards the latter. Expanding ocean recreation management will allow DOBOR to provide a safe and enjoyable experience for all residents and visitors on all State waters, not just within boating harbors and facilities.

Goal 2: Provide world-class boating facilities and services

As a State with a significant number of ocean recreation enthusiasts and millions of residents and visitors alike who participate in ocean-based activities, Hawai‘i should have the facilities and services required to meet the needs of these populations. State harbors are in desperate need of maintenance, improvements, and other developments necessary to adequately meet the expectations of the public.

Goal 3: Effectively manage DOBOR’s real property

The State is underutilizing the opportunity to generate revenue from State-owned fast lands. Fast lands have immense commercial development potential to attract greater foot traffic in harbor areas and yield higher income to the State. Through this strategic plan, DOBOR can realize a more efficient management and development scheme that takes advantage of this opportunity.

Where We Are Going - Fixing the System

DOBOR's plan fully leverages the advantages of public-private partnerships to empower DOBOR to fulfill its statutory mandates and its ambitions for Hawai'i's small boat harbors and ocean recreation management.

The plan entails achieving balance between boating and ocean recreation mandates by allocating more resources to developing excellent and effective ocean recreation

management while continuing to streamline core boating functions. The division aims to establish a robust public-private partnership-based system statewide to transform its recreational harbors into world-class marinas that meet the needs of millions of residents and visitors. At the same time, optimization enabled by public-private partnerships will free DOBOR staff to provide much-needed safety, education and enforcement for the State's ocean enthusiasts.



The Solution: A Public-Private Partnership Approach

Public-private partnerships hold the key to a strategic redesign that enables harbors to operate at their maximum potential while staff engage in managing ocean recreation.

Public-private harbor management, a proven approach that has demonstrated success for jurisdictions across the country, offers the optimal approach.

States that have partnered with private entities have found that private organizations can conduct harbor management successfully and efficiently. For these states, partnerships have brought in capital for much-needed infrastructure development, optimized revenue to honor the public interest, and freed up resources to allocate towards other needs, advantages that Hawai‘i direly needs.

*Public-private partnerships allow the State access to the advantages private companies offer **WITHOUT** privatization.*

Public-private partnerships allow the State to access key advantages private companies have without diminishing the State’s regulatory authority. In a public-private partnership, the State contracts harbor management or leases its assets to a private entity while retaining ownership, governmental oversight, and control of fees. Public-private partnerships are different from privatization, in which the State sells its assets, transferring ownership to a private entity. DOBOR already has demonstrated the economic viability of the concept on a small scale with Waikīkī Yacht Club, Hawai‘i Yacht Club, La Mariana Sailing Club and Ke‘ehi Marine Center. These four operations pay DOBOR just under \$825,000 per year through long-term leases of fast lands, and manage their own boating operations on those lands. Now we will attempt implementation on a larger scale encompassing entire harbor facilities.

DOBOR is prohibited from privatizing by selling its assets by State law. Instead, it recognizes that private companies offer crucial advantages over State government. Since private firms can seek funding from sources the government may not be able to access, maintenance, renovations, and other improvements can be performed more cost effectively. Moreover, because firms aim to increase their customer base, they are adept at making business decisions that satisfy consumer needs and can respond more quickly to change as needs arise. Private firms can find the most cost-effective and efficient way to manage a harbor as a business while simultaneously prioritizing customer satisfaction.

Private companies provide successful harbor management solutions across the US.

Across the United States, governments have connected with private entities to increase revenue, provide improved management and infrastructure, and ensure that State resources remain focused on critical governmental functions. While Hawai‘i is unique in that it has not fully embraced this proven strategy, it has recognized the potential benefits of allying with private companies. Harbor management by private entities is not a new idea: in 1993, the Office of State Planning pointed out that “[p]rivate enterprise can play a large role in providing necessary capital” for boating infrastructure.

The benefits of managing harbor assets in conjunction with private entities were highlighted in a recent survey. In 2017, the Hawai‘i Coral Reef Initiative (HCRI) conducted a national survey on harbor management practices, consulting and interviewing ten governments in seven states. The survey found that *only 1% of the harbors surveyed nationally were*

state-owned. States contracted harbor management out to private companies either fully or piecemeal, by service or function. These government entities have found working with private companies to be the best way to:

- Manage harbor assets efficiently in terms of revenue;
- Shift limited staff resources to areas where they are really needed (i.e. for rule-making, oversight, enforcement, and safety education);
- Develop infrastructure by partnering with private entities.

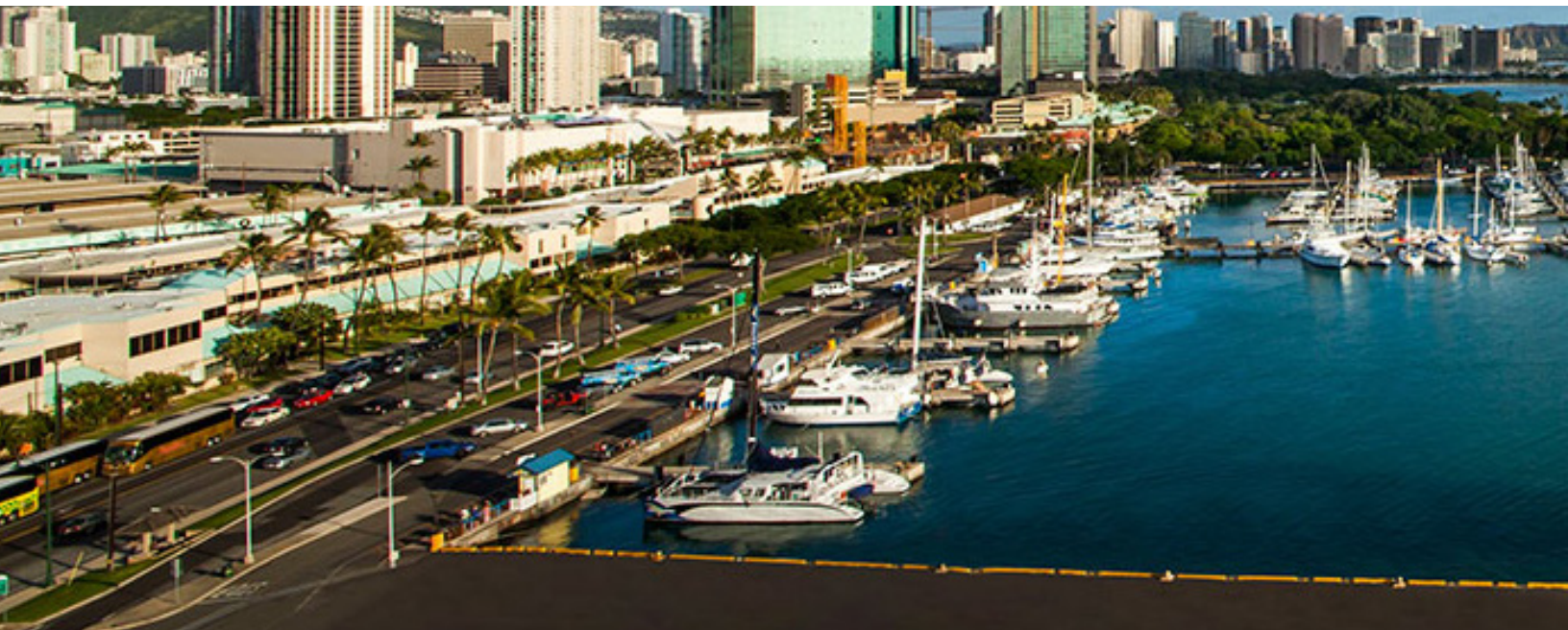
Interviewees included Chicago Park District, Illinois; New York; Titusville, Florida; and Kewalo Basin, Hawai‘i.

Chicago Park District, IL

Chicago Park District first turned to a private company to manage its ten harbors and 6,000 boat accommodations in 1995. Since partnering with Westrec Marinas of Encino, California, Chicago Park District has not looked back. The largest municipal system of harbors in the U.S., Chicago Park District Harbors offers sophisticated amenities for locals and visitors, including fueling facilities and floating docks. Over the past few years, these popular harbors have had occupancy rates greater than 98%. In the two decades following Chicago Park District's implementation of this management strategy, net revenues increased from \$0 to \$13.5 million.

New York

Like Chicago Park District, New York State has enjoyed greater revenues through partnering with a private management company. New York has the ninth highest boating community in the US, with over 400,000 registered motorized vessels and roughly 300,000 non-motorized vessels. The State has always bid out management of its harbors to private companies. One of its marinas plans to bring in as much as \$10 million over the 25-year rental period. The harbor development company that operates and maintains New York's Buffalo River Marina Complex will invest that revenue in harbor development.



Titusville, FL

After contracting a private company to manage its harbors, the City of Titusville also experienced a dramatic increase in revenues. Occupancy increased from 50% to 60% to 96%. This partnership enabled Titusville to overcome its debt of \$300,000 and generate \$120,000 in positive working capital. Managed and operated by F3 Marina, an industry leader, Titusville Marina provides full-service amenities that cater to boaters' needs. Among its many sophisticated features are fixed and floating docks, a store that sells boating equipment and cleaning gear, a fuel dispensing station, a laundry area, and WiFi throughout the facility.

Kewalo Basin, HI

Through its successful implementation of a public-private partnership (PPP) strategy, Kewalo Harbor on O'ahu has demonstrated that this approach can provide successful, effective harbor management solutions and infrastructure development to Hawai'i's harbors. Under the Hawai'i Community Development Authority's (HCDA) jurisdiction, Kewalo Basin is leased to the Howard Hughes Corporation (HHC) which contracts harbor management to Almar Marina Management Company. The former brings in capital for infrastructure development, while the latter manages the facilities.

HCDA has a very different mandate from that of DLNR/DOBOR. HRS §206E granted HCDA the power to develop areas of Honolulu and leverage public-private monies. In the case of Kewalo Basin, this authority allowed HCDA to attract a private funder (HHC) to propose capital improvements. The understanding at work here is that fair market rent set by appraisal will attract a business entity, such as HHC, to conduct the improvements. Currently, much of Kewalo Basin is slated for or undergoing planned improvements that will be funded by HHC. In these types of partnerships, because capital improvement funds come from private partners, State funds requested from the Legislature can stretch further.



A model of successful public-private partnership in Hawai‘i, beautiful Kewalo Harbor will enjoy streamlined management while offering world-class facilities through partnership with Howard Hughes Corporation.

Kewalo Harbor fronts the Ward Village area, an integrated commercial and residential setting not far from Ala Moana Shopping Center. Selected by HCDA in 2014 for a lease agreement through a competitive process, the Howard Hughes Corporation (HHC) embarked on its improvement and modernization project for Kewalo Basin in 2015. Howard Hughes Corporation is improving harbor facilities, providing better safety and security services, and upgrading docks. Howard Hughes Corporation also aims to increase foot traffic to Kewalo Harbor via strategic marketing.

In the years to come, boaters can look forward to state-of-the-art infrastructure and services. Other objectives include greater management efficiency and higher numbers of moored vessels. The future-oriented improvement plan also supports fishing, recreational vessel and tour activities while recognizing the importance of Kewalo as a valuable resource and aiming to maintain Kewalo Basin for the community.

Through the PPP strategy, Kewalo Harbor benefits from investments to improve infrastructure while the State retains regulatory oversight of the asset. This management model serves all parties: the State is free to focus on providing exclusive governmental functions, boaters gain improved facilities and services, and the resource is responsibly stewarded, maintaining the public trust.

Kewalo Basin demonstrates that the PPP model can work in Hawai‘i applied to an entire harbor facility and that large corporations are interested in investing in the islands.

As the HCRI national survey and the success of Kewalo Basin clearly indicate, public-private partnerships offer the optimal harbor management solution Hawai‘i needs. For this reason, PPPs form the crux of DOBOR’s plan to revitalize a dysfunctional harbor system. These collaborative arrangements will allow DOBOR to replace outmoded, ineffective practices with modern, proven approaches, while the Boating and Ocean Recreation Division preserves ownership of its assets and the Board of Land and Natural Resources (BLNR) retains control over fees.

When DOBOR enters into partnerships with private companies on a larger scale than it has in the past, its small boat harbors can be brought up to par with world-class marinas and other successful harbors throughout the country. This management scheme will produce better services, a more satisfied boating community, increased services, and increased capital and revenue for improvements, and, most importantly, enable the State to responsibly steward its assets and resources.

Through leveraging the advantages of public-private partnerships, DOBOR's new management model supports the division in fulfilling its duty to better serve its ocean recreation management and boating purposes. The vision for DOBOR set forth in this strategic plan supports three goals:

1. Expand ocean recreation management to meet DOBOR's statutory mandate;
2. Provide world-class boating facilities and services;
3. Effectively manage DOBOR's real property.

Each goal translates the main vision into specific actions that move this plan forward.

Goal 1: Expand ocean recreation management to meet DOBOR's statutory mandate

Through implementing the PPP strategy, DOBOR will free existing staff that it will then shift toward ocean recreation management tasks to balance its allocation of resources between its two primary statutory mandates. Contracting resource-intensive harbor management responsibilities to private partners will enable DOBOR to expand ocean recreation management and fulfill the mandate without needing to increase staff numbers. This rebalancing will empower staff to provide critical State functions for the broader ocean-user community. DOBOR will be able to serve more ocean enthusiasts through greater ocean recreation management planning, oversight, education, and enforcement, as well as meet the needs of more ocean users and recreational boaters in the State.

Goal 2: Provide world-class boating

By implementing the public-private partnership strategy and transitioning to more of an asset management model, DOBOR will not only perform necessary repairs and improvements to its small boat harbors, but again, transform them into world-class marinas. By maintaining a degree of engineering oversight in the development process, the harbors can be transformed in a way that is sensitive to community needs and concerns.

Goal 3: Effectively manage DOBOR's real property

Through the PPP model, DOBOR will streamline current operations and effectively manage its real property. DOBOR aims to transfer duties irrelevant to primary State functions to private partners, allowing the division to more fully utilize its assets by further developing its fast lands to generate revenue. Because the fast lands could bring in substantive financial resources, capitalizing on the potential of these assets presents a significant opportunity to increase revenue for core operations.

Within its fast lands, DOBOR has identified two areas with considerable revenue potential, pictured in the figure below. The figure shows an overhead view of the Ala Wai Small Boat Harbor and highlights the areas where the State generates money. The fast lands are outlined in yellow and are accompanied by a text indicator detailing the amount of revenue the land generated, based on DOBOR income statements for FY 2018. One opportunity is to enhance the fast lands that are currently under-utilized. Since these parcels can potentially generate substantial income for the State, cultivating the commercial development of these assets can

add greater value. Another is to take advantage of the vacant lot next to the Hawaii Prince Hotel. This site presents an important opportunity to attract businesses that will draw more foot traffic and encourage greater economic activity.

Once harbors under its jurisdiction are leased to companies in the partnership model, DOBOR will be able to work on optimizing revenue to the State by making the best use of its fast lands. This strategy presents a far more efficient means to yield significant revenue than expending resources on deferred maintenance for harbors operating at a net loss.

Ala Wai Small Boat Harbor Revenue Sources



**Total Revenue generated from
Fast Lands in FY2018 = \$1,914,816**

- Legend**
- Free Parking
 - Paid Parking
 - Fast Lands (includes submerged parcels)
 - Slip Fees

The Roadmap to Getting There

DOBOR’s strategic plan is divided into four phases. It begins with a preparatory stage, continues with an initial implementation phase followed by rigorous assessment, and culminates with full implementation of the PPP strategy and the achievement of all three of DOBOR’s goals. DOBOR looks forward to establishing a well-designed system that enables effective harbor management and developing balanced staff allocation between boating and ocean recreation management, providing world-class boating services, and optimizing asset revenues by 2025.

Phase 1 (2019-2020): Setting the groundwork

During the initial phase, DOBOR will make all necessary preparations to implement PPPs at its boating facilities. Currently, HRS Chapter 200 authorizes DOBOR to lease fast and submerged lands at the Ala Wai Small Boat Harbor. DOBOR will seek to clarify its authority to enter into PPPs at small boat harbors statewide through legislative action. DOBOR will then be able to move forward with a statewide PPP plan. DOBOR will identify criteria and management candidates and determine metrics to gauge performance. DOBOR will also identify revenue-generating services to be contracted out and outline tasks associated with contracting these services to private companies. At this time, DOBOR will also release requests for proposals (RFPs) for management of each of its harbors. Initial groundwork to rebalance staff between boating and ocean recreation management by apportioning greater staff resources toward the latter will also commence during this stage. The division will develop a staffing plan for adjusting staff duties to achieve a balance between harbor management and ocean recreation management tasks. DOBOR will determine prioritization of ocean recreation management tasks.

Phase 2 (2020-2021): Initiating PPP at the first harbors

Once the groundwork has been laid, DOBOR will begin implementing its newly designed public-private partnership strategy. Through the RFP process initiated in 2019, DOBOR will select private entities with which to partner and issue them long-term leases to attract funds for improvement projects. The selected companies will perform harbor management, maintenance, and improvement project tasks under the division’s supervision. During this phase, DOBOR will also formulate plans to optimize any remaining harbor revenue-generating services. This process will continue until all of DOBOR’s facilities are being managed through a PPP and are optimized to maximize returns. DOBOR will submit a report on its progress to the Legislature by the end of 2021.

Phase 3 (2022-2024): Assessing the program and building on progress

In 2022, DOBOR will begin evaluating the PPP program, assess services, revenue, cost, and maintenance. Assessment data will guide adjustments that will be made to the PPP-based management strategy in the future. At the close of 2024, DOBOR will submit a report on progress to the Legislature.

Phase 4 (2025): Implementing the partnership strategy at all DOBOR harbors

Following careful preparation and assessment during the first three phases, the fourth stage calls for establishment of a rigorously evaluated, robust public-private partnership-based management system across all harbors under DOBOR’s jurisdiction. DOBOR will advance progress toward its goal of statewide PPP harbor management by continually adding any remaining facilities and fast lands to the program, performing assessment, and making adjustments aimed at optimization. During this phase, DOBOR will complete optimization of all relevant services. DOBOR will finalize staffing and finish equally allocating staff between boating and ocean recreation management duties and attend to real property management tasks to optimize revenue from fast lands.

The course charted by this strategic plan culminates with this concluding phase, at which point maximum advantages of the partnership-based system are realized, maintained, and improved upon as necessary.

Developed after extensive dialog with marina management companies to obtain feedback, the proposed system adapts strategies that have been used successfully in other, similar programs to address the constraints DOBOR must grapple with. DOBOR proposes this public-private partnership-based harbor management program with full confidence that it will be successful, bringing the division closer to its goal of modernizing and revitalizing ocean recreation management in Hawai‘i.

2019

- Clarify statutory authority to give DOBOR ability to enter into public-private partnerships (PPP)

2020

- Legislature approves PPP at first harbor(s)
- Release requests for proposals (RFPs)

2020-2021

- Initiate PPP at first harbor(s)
- Submit report to Legislature on progress

2022-2024

- Assess first PPP harbors; services, revenue, cost, maintenance
- Submit report to Legislature on progress

2025

- Modify PPP program as necessary
- Implement PPP at all DOBOR harbors

Conclusion

DOBOR's harbors of tomorrow should be clean, modern and well-maintained. They should serve as true community centers of boating and ocean recreation activity in the islands and gateways to access a rich resource for residents and visitors alike. We have an opportunity to create a space where people congregate, meet friends and family, enjoy the ocean waters and watch the sun rise and set. When sailors arrive in Hawai'i and when residents visit our facilities, our harbors must meet or exceed expectations, offer world-class amenities, activities and resources. They should be, and can be, inviting.

The path to developing world-class facilities is very long and uncertain with DOBOR's current system of direct governmental harbor management. The current management strategy for the State small boat harbors that has been in place since they were first constructed has proven to be ineffective and is now outdated. In order to accomplish our goal to offer better services and modernize the facilities, DOBOR needs to enter into collaborations with the private sector and the community to make this vision a reality.

The coastal areas program requires DOBOR to manage all activities taking place in state waters from the shoreline and three miles out to sea. This includes regulating commercial and recreational vessel activities, maintaining aids to navigation, and assisting with protecting marine resources. However, DOBOR does not have a dedicated funding source or dedicated staff to carry out this mandate.

A win-win situation is created by entering into different management scenarios that will allow for more resources and staff time to be allocated to the coastal areas program while ensuring that the small boat harbors are maintained and by offering quality service to the community and visitors alike.

We invite you all to join in this important transition for Hawai'i's ocean community to rejuvenate our harbors and coastal areas program in Hawai'i.

It is up to us all to build on the rich and colorful ocean-going tradition of our host culture and re-establish Hawai'i as a place where our people can safely enjoy and thrive in our ocean, a magnet for international boat traffic and a hub for adventurers crisscrossing the Pacific.

— Mahalo —

HB-1089-HD-1

Submitted on: 2/27/2023 2:08:24 PM

Testimony for FIN on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Tania	Individual	Oppose	Written Testimony Only

Comments:

I'm oppose for employees in losing their position in boating division. The harbor staff was not notified from the Administration about the HB 1089 and want the bill is about.

HB-1089-HD-1

Submitted on: 2/27/2023 3:28:06 PM

Testimony for FIN on 2/28/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Gordon Fowler	Individual	Oppose	Written Testimony Only

Comments:

While nobody can argue that the State of our DOBOR run harbors is abysmal, I can't support just leasing one to a private enterprise, unspecified at that, without at least some oversight by our elected officials.

Allowing unelected bureaucrats, such as those that have allowed the decline, the latitude to enter into a long term agreement like this leaves far too much room for problems. The present DOBOR management should not be the ones to be making this call. They seem to be somewhat self serving.

There are no guarantees on the level of services to be provided by the lessor. That full service available to the general public is nowhere mentioned. In fact of the only models we have for privatized harbors Keehi Marine, La Mariana, and notably Ko lina, only Ko olina is a real full service facility offering a launch ramp and wash down area.

They work hard at keeping the general public out, denying entry by way of a guard shack, and where use of the launch ramp is offered only at exorbitant rates. I for one will not pay them.

Keehi marine also excludes the public through restricted parking and a guard shack. all charge higher mooring fees than those offered at the State Harbors.

There is also no guarantee that mooring rates will remain affordable in a private harbor as profit is clearly the motive. The common folk like us may soon find ourselves priced out with no alternatives.

It is clear that DLNR wants out of the Harbor business, and perhaps I can support that, but not without defined protections for us, the recreational boater.

Think it over and come back with a better idea.