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

SYLVIA LUKE LIEUTENANT GOVERNOR | KA HOPE KIA'ÄINA





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

Monday, February 26, 2024 3:30 PM State Capitol, Conference Room 308

In consideration of HOUSE BILL 1919, HOUSE DRAFT 1 RELATING TO STATE BOATING FACILITIES

House Bill 1919, House Draft 1 proposes to establish a State boating facility lease pilot program for the Department of Land and Natural Resources (Department) to lease one State small boat harbor for private development, management, maintenance, and operation in a county with a population of less than 900,000. **The Department strongly supports this measure.**

The Department currently has four harbor facilities on O'ahu that are under a public-private partnership: La Mariana Sailing Club (LMSC), Ke'ehi Marine Center (KMC), Waikīkī Yacht Club, and the Hawai'i Yacht Club. This measure will allow the Department to pilot the same management model as the entities listed above with the intent that the program be expanded statewide when shown to be 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 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 to sell any State lands and will only offer leases as part of a public-private partnership model.

Mahalo for the opportunity to provide testimony on this measure.

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

> RYAN K.P. KANAKA'OLE FIRST DEPUTY

DEAN D. UYENO ACTING DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES BOATING AND OCEAN RECREATION BUREAU OF CONVEYANCES COMMISSION ON WATER RESOURCE MANAGEMENT CONSERVATION AND CASTAL LANDS CONSERVATION AND RESOURCES ENFORCEMENT ENGINEERING FORESTRY AND WILDLIFE HISTORIC PRESERVATION KAHOOLAWE ISLAND RESERVE COMMISSION LAND STATE PARKS JOSH GREEN, M.D. GOVERNOR

SYLVIA LUKE LIEUTENANT GOVERNOR

EMPLOYEES' RETIREMENT SYSTEM HAWAI'I EMPLOYER-UNION HEALTH BENEFITS TRUST FUND OFFICE OF THE PUBLIC DEFENDER



LUIS P. SALAVERIA DIRECTOR

SABRINA NASIR DEPUTY DIRECTOR

STATE OF HAWAI'I DEPARTMENT OF BUDGET AND FINANCE Ka 'Oihana Mālama Mo'ohelu a Kālā P.O. BOX 150 HONOLULU, HAWAI'I 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION FINANCIAL ADMINISTRATION DIVISION OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY TESTIMONY BY LUIS P. SALAVERIA DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE TO THE HOUSE COMMITTEE ON FINANCE ON HOUSE BILL NO. 1919, H.D. 1

> February 26, 2024 3:30 p.m. Room 308 and Videoconference

RELATING TO STATE BOATING FACILITIES

The Department of Budget and Finance offers comments on this bill.

House Bill No. 1919, H.D. 1: 1) establishes a State Boating Facility Lease Pilot

Program within the Department of Land and Natural Resources to lease one State small boat harbor for private development, management, maintenance, and operation in a county with a population of less than 900,000; 2) repeals provisions related to the leasing of fast lands and submerged lands of the Ala Wai boat harbor; 3) specifies reporting requirements; and 4) terminates the pilot program on June 30, 2044.

It should be noted that most small boat harbors were developed or improved using general obligation bond funds. Consequently, the pilot program needs to be structured in compliance with restrictions set forth by the Internal Revenue Service on the use of governmental bonds.

Thank you for your consideration of our comments.



UNITED PUBLIC WORKERS

AFSCME Local 646, AFL-CIO

HOUSE OF REPRESENTATIVES THE THIRTY-SECOND LEGISLATURE **REGULAR SESSION OF 2024**

COMMITTEE ON FINANCE

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

Monday, February 26, 2024, 3:30 PM Conference Room 308 & Videoconference

Testimony on HB1919, HD1 – RELATING TO STATE BOATING FACILITIES Re:

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.

UPW opposes HB1919, HD1, which establishes a state boating facility lease pilot program within the Department of Land and Natural Resources ("DLNR") to lease one state small boat harbor for private development, management, maintenance, and operation in a county with a population of less than 900,000. This measure also repeals provisions related to the leasing of fast lands and submerged lands of the Ala Wai boat harbor.

This bill provides the Land Board with the authority to lease the submerged lands of a state boating facility without the need for prior legislative authorization, via a concurrent resolution, by exempting the proposed pilot project from Section 171-60 (a). UPW understands that this is exemption may be necessary for DLNR's Division of Boating and Ocean Recreation ("DOBOR") to maintain facilities that have historically proven to be a burden for managing agencies, but we believe that this public-private partnership, and others like it, degrade the working rights of public workers.

While this bill does attempt to preserve the rights the impacted civil service positions, we fear that the success of such a pilot program will lead to the expansion of private-public partnerships for state boating facilities and the eventual loss of these types of positions in the future.

Mahalo for the opportunity to testify on this measure.

Sincerely,

Kalani Werner State Director

HEADQUARTERS

1426 North School Street Honolulu, Hawaii 96817-1914 Phone 808.847.2631

HAWAII

362 East Lanikaula Street Hilo, Hawaii 96720-4336 Phone 808.961.3424

KAUAI 2970 Kele Street, Suite 213 Lihue, Hawaii 96766-1803 Phone 808.245.2412

MAUI 841 Kolu Street Wailuku, Hawaii 96793-1436 Phone 808.244.0815

1.866.454.4166 Toll Free - Molokai/Lanai onlv

STARN•O'TOOLE•MARCUS & FISHER

A LAW CORPORATION

Monday, February 26, 2024, 3:30 P.M.

State of Hawai'i

House Committee on Finance State Capitol, Conference Room 308

JOINT TESTIMONY OF DOUG CHIN AND ERIC ROBINSON OFFEREING COMMENTS ON HOUSE BILL 1919, HD1 RELATING TO STATE BOATING FACILITIES

Dear Chair Yamashita, Vice Chair Kitagawa, and Committee Members:

We are legal counsel for a hui of commercial boaters throughout the State. We respectfully **offer comments** on House Bill 1919, HD1.

Reviewing the bill and observing testimony makes two things clear: 1) the State's harbors are in need of improvement; and 2) the bill presents a lot of unknowns. Allowing time for thoughtful engagement and refinement of the bill's concepts could help answer a lot of the bill's unknowns. Moreover, addressing the concerns raised by testifiers could continue to foster collaboration and trust between the State and harbor users. As has been seen in testimony on several other bills, this relationship can also be improved. DOBOR has made headway on that front, and we are hopeful that this progress will continue.

Thank you for the opportunity to provide testimony offering comments on HB1919, HD1.

Sincerely,

Douglas S. Chin

Eric S. Robinson

Eric S. Robinson

<u>HB-1919-HD-1</u>

Submitted on: 2/25/2024 3:12:24 PM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Jessie Croft	Explore Kauai Scuba, LLC	Oppose	Written Testimony Only

Comments:

Aloha Chair Yamashita, Vice Chair Lisa Kitigawa, and Members of the Committee on Finance,

My name is Jessie Croft and I oppose HB1919 HD1. This is a confusing bill that seems sneaky. Keep harbors public for everyone to use.

Mahalo,

Jessie Croft

HB-1919-HD-1

Submitted on: 2/25/2024 3:17:52 PM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Koa Fuller	Komohana Charters LLC	Oppose	Written Testimony Only

Comments:

HB1919

Leasing a state owned harbor to outside interest is not only detrimental to commercial operations (affecting hundreds of local jobs) but also detrimental to the local community. Harbors are used by local fisherman both recreational and commercial. Many of these guys struggle to make the minimal payment to use state facilities now, and allowing a company control over access as well as the ability to implement fees of their own in addition to the states fees will cause major damage to the local community. These facilities are also utilized by groups and families for events, how can we guarantee the community will still have access, and the moneys the state has already put into the facilities will continue to be maintained?

How will the state keep outside interests from taking over? We need exact plans and the community to be involved before even thinking about passing a bill that could open the door to so much negative impact.

Again the DLNR is masking their intent by imposing rules they say is due to lack of funding and lack of jobs. Audit the DLNR, come up with plans to evenly distribute income to counties such as Kauai so that harbors can be properly maintained and monitored.

<u>HB-1919-HD-1</u>

Submitted on: 2/25/2024 7:11:19 PM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Nick Croft	Explore Kauai Scuba, LLC	Oppose	Written Testimony Only

Comments:

Aloha Chair Yamashita, Vice Chair Lisa Kitigawa, and Members of the Committee on Finance,

My name is Nick Croft from Kauai. I oppose HB1919 HD1. This bill is confusing and mysterious. I have many questions about this bill and it answers none of it. Harbors should remain public for everyone to use.

Mahalo Nui Loa,

Nick Croft

owner/operator, Explore Kauai Scuba

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

F S C M E

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

Testimony by Hawaii Government Employees Association

February 26, 2024

H.B. 1919, H.D.1 - RELATING TO STATE BOATING FACILITIES

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO opposes the purpose and intent of H.B.1919, H.D.1, which establishes a state boating facility lease pilot program. The proposed bill would allow the Department of Land and Natural Resources to lease one small boat harbor in its entirety and allow a private partner under lease or contract for private development, management, maintenance, and operation.

The proposed privatization language of H.B.1919, H.D.1 is very broad and does not identify which small boat harbor will be impacted, rather it empowers the Board the exclusive authority to negotiate the private development, management, maintenance, and operation. From a policy perspective, we respectfully argue that the Legislature should maintain sole responsibility in determining which public assets should be privatized and should allow the public an opportunity to weigh in.

The measure provides little information of where employees will be reassigned within the division of boating and ocean recreation. Furthermore, as the exclusive representative of the affected civil service employees, any change to working conditions shall be by mutual consent between the employer and the HGEA and all matters affecting employee relations shall be consulted with the HGEA.

If the justification of this measure is to allow private entities to make improvements and improve the state small boat harbor facilities, then it would behoove the Legislature to provide more support to our employees and departments – not allow the Board to contract our these functions.

Thank you for the opportunity to testify in opposition of H.B.1919, H.D.1.

Respectfully submitted,

Randy Perreira Executive Director

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.



Cade Watanabe, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Eric W. Gill, Senior Vice-President

February 26, 2024

House Committee on Finance Hearing on February 26, 2024, 3:30pm Representative Yamashita, Chair Representative Kitagawa, Vice-Chair

Testimony in Opposition to HB1919_HD1

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

UNITE HERE Local 5 represents 10,000 working people in the hotel, food service and health care industries across Hawaii.

We submitted testimony in opposition to HB1919. We can only assume HB1919 is founded on the same general motivations as 2023's House Bill 1089 that looked to privatize the Ala Wai Boat Harbor.

We urge lawmakers to stop thinking that privatization deals, also referred to as Public Private Partnerships (PPP), are the de facto option when faced with challenging governance problems. Governments are not supposed to be profit-making enterprises. Citizens are public stakeholders, not consumers to be judged for their economic viability by private businesses. Local government should provide public spaces for public activities under the oversight of elected lawmakers.

While HB1919_HD1 doesn't explicitly state it seeks to privatize Ala Wai Harbor, and HB1919_HD1 as currently written would exclude Ala Wai based on the bill's county-population threshold of less than nine hundred thousand residents, we are wary of any future amendments that could bring the Ala Wai harbor back into HB1919_HD1's scope.

Furthermore, it is concerning that HB1919_HD1 strikes statutory language that limits the parcels defined as leasable Ala Wai Boat Harbor lands under HRS200-2.6. It is not clear why removing limits on the number of parcels included in the Ala Wai Boat Harbor area is included in this bill, if the Ala Wai Boart Harbor is excluded by county population definitions in the bill.

In our testimony to HB1089 in 2023, we highlighted shortcomings in the "*Modernizing Ocean Recreation Management in Hawaii Strategic Action Plan – 2019*" plan authored in 2019 by DLNR and DOBOR. That plan laid out a rationale for why certain interests wanted to privatize the Ala Wai. Our testimony raised serious concerns about the shortcomings in the arguments made for privatization of Hawaii boat harbors. We stand by our testimony against HB1089 made in 2023.

We urge you to read our testimony on HB1089 in 2023 (attached here as Exhibit 1). Many of our argument made then would still apply now to HB1919_HD1's attempts to privatize publicly owned and operated public boat harbors in 2024.

We urge you to vote against HB 1919_HD1.

Thank you for your consideration.





Eric W. Gill, Financial Secretary-Treasurer

Gemma G. Weinstein, President

Cade Watanabe, Senior Vice-President

March 17, 2023

Senate Committee on Water and Land (Monday, March 20, 2023, 1:05pm) Senator Lorraine R. Inouye, Chair Senator Brandon J.C. Elefante, Vice Chair

Testimony in opposition to HB1089_HD1

Chair Inouye, Vice Chair Elefante and Members of the Committee:

UNITE HERE Local 5 represents working people throughout Hawaii's hotel, food service and health care industries. We **strongly oppose the intent of HB1089** to privatize public harbors via Public Private Partnerships.

HB1089 is one of many examples of the trend among lawmakers to hand off public commons to forprofit companies. This faith in the "free market" is fundamentally misaligned with the function and intent of governance. We urge lawmakers to stop thinking that Public Private Partnerships (PPP) are the de facto option when faced with challenging governance problems. Governments are not supposed to be profit-making enterprises. Citizens are public stakeholders, not consumers to be judged for their economic viability by private businesses. Local government should provide public spaces for public activities under the oversight of elected lawmakers.

We assume the "Modernizing Ocean Recreation Management in Hawaii Strategic Action Plan – $2019''^{1}$ (the "Plan") authored in 2019 by DLNR and DOBOR is the foundation for HB1089 since it lays out the desire to permanently privatize *all of* DOBORs small boat harbors. The Plan focused on the Ala Wai harbor as the primary target for PPP over any other harbor. It's clear HB1089's intent is to privatize the Ala Wai harbor as a first step and in isolation from other harbor privatizations. HB1089 calls for a twenty-year timeline that allows only "one" small boat harbor to be leased while at the same time deleting existing statutory language (HRS200-2.6) that limited leasable areas in Ala Wai harbor to only certain smaller parcels.

The Plan is flawed, and a critical analysis of its claims leads to the conclusion that **privatizing public harbors is not necessary or desirable**. The 24-page glossy document (averaging less than 240 words a page) contains repetitive rhetoric repeating the claim that a PPP will produce a promised result. The Plan provides no substance and the public has *not* shown it even wants that promised result. In 2019 Civil Beat reported on a vetoed harbor privatization bill and the State's other longtime efforts to offload harbor management². The Plan lacks guardrails, detail, context, objective metrics, statutory frameworks, financial context, guidelines, utilization data, investment expectations, and generally lacks convincing arguments for PPP.

HB1089 and its intent should not be passed because:

¹ <u>https://dlnr.hawaii.gov/dobor/files/2019/09/DOBOR-Strategic-Plan-2019_webpost.pdf</u>

² <u>https://www.civilbeat.org/2019/05/blindsided-by-a-last-minute-plan-to-privatize-lanais-small-boat-harbor/</u>

- It takes away the legislature's future discretion to approve or disapprove privatization actions (HB1089_HD1).
- Statewide, there are 20 small boat harbors in the DOBOR's care. The focus on privatizing the Ala Wai harbor is concerning for systemwide revenue if less desirable/profitable harbors will remain a State responsibility.
- It wrongly paints public agencies that are not "profitable" as a problem. Government provides services for taxpayers its justification should not be based on its profit generation.
- It ignores or doesn't value the non-financial benefit of providing residents with ample free and paid public parking in Waikiki.
- The State wants to move away from boat harbor management to focus on "rule-making, oversight, enforcement, and safety education." Citizens may balk at the idea of agency staff doing more rule-making, oversight, and enforcement.
- There are other ways to address obstacles to harbor management.
- DOBOR is not the appropriate entity to manage multi-million or multi-billion dollar privatization deals.
- There are no guardrails to what kind of commercial development is allowed.
- This 20 year "pilot program" fails to account for context once a PPP is entered into. Many public land leases are 65 years. The Plan declared a goal of permanently privatizing all harbors. A 20year pilot project privatization deal will presumably be extended into a multi-generational loss of public control over Ala Wai harbor.

The 2019 Plan is confusing and doesn't provide a convincing argument for PPP. To summarize its main issues, the Plan simply repeats the belief that PPP will solve perceived problems, but provides no real substantive details. The Plan conflates the lack of resources to manage State harbors in a *statewide context*. After demonstrating the Ala Wai harbor is a crown jewel in terms of profitability, it makes claims about how unprofitable harbors are and then calls for the privatization of Ala Wai harbor. Moreover, a lack of resources is an issue that can be solved without resorting to giving away public land and resources to private companies.

Considering the link between the 2019 Plan and HB1089, we would like to share some key problems with the Plan itself. Excerpts from the Plan are quoted below followed by our counter points:

- "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." (Page 5)
 - The State is literally admitting the Ala Wai is its best profit generator! Why does the State want to privatize the crown jewel of its portfolio?
- "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." (Page 4)
 - We don't believe the State's public harbor management role should be abandoned or "sold" to private interests.
- "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." (Page 5)
 - As noted, Ala Wai is its best performing harbor. There's no nexus as to why it should be redeveloped to complement the Ala Moana Shopping Center customer experience.

- Magic Island, Ala Moana Beach Park, Waikiki and Kapiolani Blvd surround the Ala Wai harbor. Why does the Plan compare a boat harbor with those world class destinations? Furthermore, the scope of re-development needed for the harbor to *successfully* compete with or complement those destinations should worry any stakeholder.
- "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" (Page 7)
 - Again, government public services are not meant to provide high investment returns.
 - The State is not claiming Ala Wai harbor alone is losing \$2M a year; Ala Wai was its best profit generator.
 - The statistics from FY2018 conflate the profitable Ala Wai harbor with the DOBOR harbor program's *statewide* unprofitability.
 - A \$2 million single year deficit for 20 small boat harbors across all islands is not an unreasonable cost to provide such a significant public service.
 - It would be more informative to provide detailed financial analysis over five, ten or more years.
 - The "consumption" of 69% of staff resources for harbors should be taken in context.
 Boat harbors would necessarily require more manpower than managing something like a boat ramp (essentially a parking lot with a concrete ramp).
- "In fact, over the past five years, an average of as much as 84.2% of staff resources were allocated towards harbor management." (Page 7)
 - An objective analysis needs a more detailed breakdown of how work hours were allocated in the calculation of this statistic.
 - If HB1089 is to pass, which it shouldn't, we strongly support HB1089_HD1 amendments that protect good union jobs in the face of privatization. A missing piece of information is how many workers would be reassigned from the Ala Wai asset (and what percentage of department staff that'd constitute). And it needs to be said that there is no payroll cost savings, merely the reassignment of staff away from the Ala Wai.
- FY2018 financial chart (Page 8)
 - There are many issues with this chart.
 - Providing a single year snapshot of narrow financial data is insufficient data for analysis.
 - The single year loss of \$2M was for the statewide harbor program *as a whole* and not just the Ala Wai harbor. Again, Ala Wai was the State's best forming harbor.
 - A lot of budgetary context is missing. We need longer trends, financial information about DOBOR as a whole and by segments, explanation of expenses and cashflow, allocation of DOBOR expenses to harbors versus other segments, etc.
 - Isolating a segment that loses money in an agency as large as DLNR/DOBOR may not be appropriate.
 - If harbors are labor intensive, then it may require the most staff payroll. In comparison, boat ramps probably require less staff resources.
 - The chart metrics are confusing.
 - Is the chart exhaustive of *all* DOBOR segments' attributable profit and loss? Or is it a narrow, tailored snapshot?
 - The "non-harbor admin" profit sources are not explained. Presumably it is revenues generated by fees, licenses, fines, leases, etc. The same questions arise with the "ocean recreation" category.

- It's unclear why "non-harbor admin" is compared with "harbors", their titles seem like mutually exclusive segments.
- Is it appropriate to break out and the compare "boat harbors", "boat ramps", "ocean recreation" and "non-harbor administration" segments? They are not defined. Any inter-relationship or overlap is not explained.
 - What is "non-harbor admin" and how did it net \$2.5M in FY2018?
 - What is "ocean recreation" and how did it net \$540k in FY2018?
 - What is "boat ramps" and how did it net \$225k in FY2018?
- Why does the chart use the terms "net revenue (+)" and "net revenue (-)" to describe what we assume is net income or loss? Are there material implications in the word selections?
- Other than lease rent, profit is not going to be enjoyed by the State, it will be privatized profit. Failing to squeeze every last dime out of a public asset is not a reason to privatize.
- "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". (Page 9)
 - There are many ways to help the State in its work, or to move the work to a more appropriate department, instead of defaulting to a PPP.
- "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." (Page 10)
 - o State agencies are best suited to actively manage public lands on behalf of voters.
- "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." (Page 11)
 - Again, the State is not a money-making venture. It should not pursue maximization of profit.
 - Ala Wai is a public boat harbor to serve boaters.
- "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". (Page 13)
 - Private yacht clubs with monthly dues, minimum food and beverage spend requirement, rules, wait lists, sponsorship process, etc. is **not** something a public agency should promote. The \$825k paid in rent to the agency is money from local taxpayers (and visitors) who can afford private yacht club memberships. It's a form of taxation that segregates rich and poor ocean enthusiasts.
- 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.
 (Page 13)
 - Ala Wai boat harbor is finite in size. It's not clear how any private partner will "expand" its "customer base" (boaters).
- "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." (Page 4)

 The DOT to DLNR transfer took place about thirty years ago in 1991 (Session Act 272). If the *statewide* deferred maintenance was \$300M then, what is the more recent figures and the figures for Ala Wai?

We do not think the bill should be passed but we can propose one mitigatory amendment to improve community benefit. A PPP deal should provide the State with percentage rent in addition to base rent. If maximizing profit is justification for a PPP, then a percentage rent system allows the State to actually directly benefit from the profit generated from the public property.

UNITE HERE Local **5 strongly opposes the intent of HB1089** to privatize public harbors via public private partnerships. Thank you for your attention to this matter.

HB-1919-HD-1 Submitted on: 2/25/2024 2:09:25 PM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Klayton Kubo	Individual	Oppose	Remotely Via Zoom

Comments:

Oppose

HB-1919-HD-1

Submitted on: 2/25/2024 2:38:11 PM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Koali Fuller	Individual	Oppose	Written Testimony Only

Comments:

The money these harbors bring in and the jobs they create in the community as well as a state level need to stay in the hands of the state. Inviting in outisde intrests and bidding to control community harbors is a bad idea. This will effect not just commercial operations but recreational operators as well. Again we need numbers and exact plans on how this will work and effect the community. the state complains about lack of funding and then we take large money making harbors and hand it away for someone else to benefit?

HB-1919-HD-1

Submitted on: 2/25/2024 2:59:49 PM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Bethany Fuller	Individual	Oppose	Written Testimony Only

Comments:

HB1919

In regards specifically to the island of Kauai I have major concerns with this pilot program. Not only do I hope an exact plan is released before being even considered, BUT all companies even considered to manage be released to the community. Privatizing any state owned facility will open the doors for major public set back.

Although many commercial entities stand to lose here, so do the local and recreational fisherman. When the state has no control what will keep private interest for raising fees and limiting access? Some of these harbors are local hangout spots and I can only imagine that will no longer be. The DLNR and state say they have lack of funding and employees, yet say they will retain all jobs that may be lost through privatizing? The state stands to lose millions from even just the one harbor I am thinking of. Or is the plan for the state and DLNR to keep their fees in addition to the fees taken by the private company? This will close businesses and will greatly impact the local fisherman.

How can we ensure that locals will retain the control and that larger management from mainland with no interest to help the local people will take all? Allowing funds that the state currently receives to go to outside interests will not only put communities at risk but the state.

TO: Representative Kyle Yamashita, Chair, Representative Lisa Kitagawa, Vice Chair and Members of the Finance Committee FROM: Dr Gary W. Bilyk

53 year resident, and long time boater

RE: HB 1919 HD1 State Boating Facilities **OPPOSED** DATE: Monday, February 26 3:30PM

Good Afternoon Representatives. I am submitting this testimony in **OPPOSITION to HB 1919.** I'm not sure why the DOBOR would want to give away a small boat harbor in Hawaii.

The State owned Small Boat Harbors are supposed to provide boating and ocean recreation facilities to residents of our State. DOBOR is supposed to manage the Harbors for this purpose. To give a State facility to a private enterprise without public or legislative input (which this bill would allow DOBOR to do) would basically mean DOBOR no longer has to do a portion of its mandated job and the public could be shut out of a public facility. This makes NO SENSE!

If DOBOR can give away a Harbor (under the guise of a 20 year pilot project) what is the difference (other than scale) if DNLR decides to give a State Park to a Private entity to construct a theme park?

This bill reeks of special interest influence since the Oahu Representative who sponsored it included language to be sure it did not pertain to Oahu.

It appears to the Boating Community that the goal would be to turn Manele Harbor over to Larry Ellison or get out from under having to restore Lahaina Harbor.

As worded, this Bill gives DOBOR the ability to lease all or part of any Small Boat Harbor in the State except on Oahu without legislative approval or public input.

This may not be a wise decision for the State Government.

In the past several years, DOBOR had not distinguished itself with it's management decisions.

It's lease of fast lands in the Ala Wai Harbor to Honeybee LLC (similar to what it is seeking "carte blanche" authority to do) already has cost the State millions!

The State has been embroiled in a suit over improper contract handling when the electrical system on the 800 Pier in the Ala Wai Boat Harbor needed replacement way earlier than it should have been needed if construction had been overseen properly.

Now it seems the State is involved in a parking contract battle in the Ala Wai Boat Harbor over

the awarding of an extension of the contract to Secure, who is being accused of collusion with a towing company.

There is a sunken boat in the 600 row of the Ala Wai Boat Harbor that has been lying submerged for over a full year. The rules require the owner to have insurance to mitigate this kind of problem but DOBOR seems unable to manage its own rules!

DOBOR should not be given free rein to negotiate away a State Recreational Asset that they should in fact be managing.

I encourage you to defer this proposal.

<u>HB-1919-HD-1</u>

Submitted on: 2/26/2024 9:03:41 AM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
joseph simpliciano	Individual	Oppose	Written Testimony Only

Comments:

As the leeward residents of Oahu have learned public and private don't mix. For years the boaters have not been able to freely use the public launch ramp at Koolina harbor. Instead they would have to be put on a schedule to utilize a public harbor which makes absolutely no sense any bills relating to this is always out to get the public boaters and not hold any private harbor's accountable for anything including implanting a cap on their commercial permits. Capping public harbors owned by taxpayers but not capping private harbors is absurd. The only fix to this is provide funding which the taxpayer will foot to get any harbor ready for a unjust bill such as this. We need jobs and the community needs security especially when they are not getting it from the private harbors.

<u>HB-1919-HD-1</u>

Submitted on: 2/26/2024 9:22:09 AM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Kate Thompson	Individual	Oppose	Written Testimony Only

Comments:

Testimony OPPOSING HB 1919, Relating to State Boating Facility Lease Pilot Program

Submitted to the House of Representatives, Committee on Finance.

Hearing to be held: Wednesday, February 26, 2023, 9:00 a.m. State Capitol & Videoconference Hearing

Dear Chair Yamashita and Vice Chair Kitagawa and Members of the House Committee on Finance.

Thank you for the opportunity to submit this testimony. I am a co-founder of Kama'aina Boaters and the Director of Surfparking.org. I have moored my sailboat in the Ala Wai Small Boat Harbor for 25 years, and I sail at least twice a week. I have sailed to or visited most of the harbors in the state.

Please vote NO on the pilot study for a privatization, through Public Private Partnership, in a harbor area with a population less than 900,000.

This bill is 'too mysterious'.

- 1. What is the length of the lease?
- 2. Which harbor is being considered?
- 3. Basic design for the harbor improvements?
- 4. How will the public be included in the process?
- 5. How will public access to the harbor and nearby beaches be secured?

There are many questions yet to be answered about this measure offered by DLNR/DOBOR.

I strongly OPPOSE HB 1919 because it does not include the provision to maintain any public access, has not demonstrated public engagement, has not named the likely harbor to be considered.

DOBOR//DLNR reports the privatized harbors have been 'successful' and yet they are essentially 'closed to the public'.

Ko'Olina Marina: has not accepted 'over-night guest boats' since the pandemic (2020). Parking near the harbor is limited to tenants of the harbor. Nearby Paid public parking is limited in number. The boat ramp has been essentially unavailable for most of the years Ko'Olina Marina has been there and now they are charging for trailer parking and have high insurance minimums, effectively excluding many local small power boat owners.

Keehi Marine Center: looks like Fort Knox with huge metal gates at the entrance and members of the public can not launch a personal kayak there, or enter to buy a bag of ice, or use the bathroom in the marina. The public can not access parking, paid or unpaid.

Private Yacht Clubs have finianical entrance fees that can be barrier to the general public.

Amendment #1

If the House of Representatives integrated a certain amount of public access into the bill, there would be more public support for a public-private partnership.

For instance 1) public paid/or free Hawai'i Resident parking, 2) a public use boat ramp at the side of the locked part of the harbor 3) public access mini-mart 4) free public access pump out station.

A minimum of 10% of the mooring slips must be available for visiting boats that can stay from 1-5 nights. These boats would need to prove insurance and would need to prove they have already cleared the DOBOR required vessel safety inspection. The 'visiting' out of state/country boat owner can pay for an inspection from the list of State approved boat surveyors (cost is about \$150.00 for this type of inspection and the clearance is good for 2 years).

Amendment #2

Lease only ONE Parcel or Lot at a time. For instance, a Fuel Dock area, or a large 'Portion of the Harbor' and the parking near those slips. The 'pilot group' could earn money from their portion of the harbor.

Another idea would be to fund with matching State CIP / 'Private Investor' funds, for a 20-35 year (limited, no future) lease.

Only the existing fast-lands and submerged land area should be used for a pilot project 'build'. If the developer wants to skip the Environmental Impact Statement (EIS) it should have the build area clearly defined. A certain amount of fast land disturbance is expected to improve existing docks. Using the land to build condos or a shopping center is different, and should require an Environmental Impact Statement.

In summary, both the Legislature and Public deserve bill language that specifically describes the goals of the pilot project that the private-company applicants would need to meet, such as 1) the length of time of the lease 2) basic design revealed, 3) basic explanation of the environmental impact, 4) a two community meetings, one before the RFP is posted and one before the meeting where the decision is made 5) and an applicant selection committee should have 9 members: 4 from DOBOR/DLNR, one State property appraiser, 2 local community members, and 2 'at large' members with professional expertise such as Marine Engineering, and/or State Real Estate transfer.

In general, we know funds are already available in the Boating Special Fund for improvements and yet some supplemental private funding could expedite harbor improvements with good design plans and construction efficiency, but the source of the private money and the harbor design needs to be forthcoming. The transactions and processes need to be transparent.

The contracts need to protect the State and provide at least some public access to public land.

Instead of selling harbors by auction, or behind closed doors in a small selection committee, a harbor 'public-private partnership' should require language that specifies the ways the public will be involved in the vision plan and still have at least some guaranteed access to the harbor and in some cases, it's nearby beaches.

We sincerely appreciate your efforts to ensure that Hawai'i Residents, in particular, will be able to access the ocean.

Harbor privatization through PPP is an important topic and might be worth the effort to get the topic on the Ballot, so that all Hawaii residents can vote YES/NO.

Mahalo,

Kate Thompson

katet@me.com

HB-1919-HD-1

Submitted on: 2/26/2024 11:35:00 AM Testimony for FIN on 2/26/2024 3:30:00 PM

Submitted By	Organization	Testifier Position	Testify
Margaret Hallahan	Individual	Oppose	In Person

Comments:

Dear Chair Yamashita Vice Chair Kitagawa and Members of the House Committee on Finance.

I am strongly opposed to HB1919.

Due to public demand for higher levels of transparency in government, the push for Sunshine laws in recent years, and this year, is important in this case.

How can the public believe in democracy and preserve the public trust, when a vague bill such as HB1919 is introduced?

The bill doesn't even say which State harbor is being considered.

The Hilton Lagoon - Duke Kamamouku Lagoon is a perfect example. please see photos

I'm glad to see the Ala Wai Small Boat Harbor was taken off this bill but not saying which harbor is being considered is a low blow to 'transparency'.

Please make no amends to HRS 200_2.5 at this time. Please consider bringing HRS 200-2.5 (2011) to the BALLOT so the public can vote YES/NO regarding the disposition of state boating facility properties.

The State Harbors are on public trust land: 'Accretion lands' and as such this land has a special status within the definition of "Public Lands", which need to be managed within the identified purposes for their management as defined within Section 5 of the Admissions Act.

Let's bring this to the BALLOT.

Keeping, or losing, full control of these ocean access lands by auction, bid, sale, direct negotiation, longer-term lease or 'Pilot study" through a public-private partnership is a matter worthy of a Statewide vote, for all of Hawai'i's residents to determine.

Mahalo Chair Yamashita and Vice Chair Kitagawa and Members of the House Committee on Finance. thank you for considering my testimony.

Maggie Hallahan

§200-2.5 Disposition of state boating facility properties. (a) Notwithstanding any law to the contrary, the board may lease fast lands and submerged lands within an existing state boating facility by public auction, a request for proposals, or by direct negotiation pursuant to section 171-59 and chapter 190D, for private development, management, and operation; provided that any lease of fast lands or submerged lands pursuant to a request for proposals shall be subject to section 200-2.6, regardless to which state boating facility the fast or submerged lands are attached.

As used in this section, the term "state boating facility" means a state small boat harbor, launching ramp, offshore mooring, pier, wharf, landing, or any other area under the jurisdiction of the department pursuant to this chapter.

(b) The permissible uses under any lease disposed of under this section shall be consistent with the purpose for which the land was set aside by the governor pursuant to section 171-11. Permissible uses may include any use that will complement or support the ocean recreation or maritime activities of state boating facilities.

(c) Disposition of public lands of state boating facilities constructed, maintained, and operated in accordance with this chapter shall not exceed a maximum term of sixty-five years.

(d) All revenues due to the State derived from leases of state boating facilities shall be deposited in the boating special fund.

(e) The department shall adopt rules by Chapter 91 to implement this section. [L 2001, c 299, §2; am L 2011, c 197, §4]

Note: I could not attach my document. Please see this link.https://www.dropbox.com/scl/fi/mwr444t4yhaw2tuqb6zo0/Hilton-VS-Publicaccess.pdf?rlkey=lj3ov0c3dzf8mctn8tcl1qqp5&dl=0

Requirement for leases. L 2011, c 197, §8.





د

, _____

· · ·







Coordinates 21.28262° N, 157.83917° W