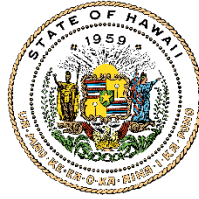


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KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

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

**Before the Senate Committee on  
JUDICIARY**

**Wednesday, February 28, 2024  
10:00 AM**

**State Capitol, Conference Room 016 & Videoconference**

**In consideration of  
SENATE BILL 3168, SENATE DRAFT 1  
RELATING TO THE TAKING OF MARINE DEPOSITS**

Senate Bill 3168, Senate Draft 1 proposes to authorize the Department of Land and Natural Resources (Department) to approve permits for research, education, management, or propagation purposes that include the taking of sand, dead coral, coral rubble, rocks, soil, and other marine deposits seaward of the shoreline. **The Department supports this bill.**

The Department regularly receives requests for permits that involve the taking of sand, dead coral, coral rubble, rocks, soil, or other marine deposits from state waters for research, education, management, or propagation purposes. However, the Department is not authorized to approve these permit requests because Hawaii Revised Statutes (HRS) § 171-58.5, does not currently allow for the take of these resources for those purposes. The Department believes that it should have the authority to issue permits for the take of these resources for those purposes, and it supports the amendments to HRS § 171-58.5 that allow for this.

The Department believes that HRS § 171-58.5 was never intended to prevent researchers, educators, or managers from taking marine deposits for scientific research, education, management, or propagation purposes. The legislative history of HRS § 171-58.5 shows that the original intent of the statute was to delineate the jurisdiction of submerged lands and resources between the counties and the State and to clear confusion about overlapping jurisdiction and responsibility for these submerged lands and resources. *See* Act 375, Session Laws of Hawai'i 1988. In 2013, HRS § 171-58.5 was amended to allow for the inadvertent taking of small amounts of sand and for the taking of these and other marine deposits for the exercise of

traditional and cultural practices. The bill's introducer in 2013 was concerned with large-scale sand collection that was occurring on O'ahu, which is why the statute's language replaced the allowance of "one gallon per person per day" of marine deposits with the "inadvertent" taking of these materials. This statute was never intended to prevent research, education, management, or propagation activities.

Amending HRS § 171-58.5 to allow for the taking of sand, dead coral, coral rubble, rocks, soil, and other marine deposits for research purposes will allow legitimate research projects in the fields of geology, chemistry, biology, and climate science (among others) to occur without violating Hawai'i state law. Educators, managers, and propagators of marine life would also greatly benefit from the amendments that this bill provides, and we again note that it was never the intent of this statute to prevent these activities.

The Department currently has a process pursuant to HRS § 187A-6 for reviewing and approving special activity permits for the take of dead coral, coral rubble, and other marine deposits that would otherwise violate laws administered by the Department's Division of Aquatic Resources (DAR). However, many activities authorized by DAR special activity permits would still be in violation of HRS § 171-58.5 absent a separate permitting authority under this statute. The Department intends to use the DAR special activity permit review process, which includes consultation with environmental and cultural experts, in reviewing applications for permits under HRS § 171-58.5.

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