

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  
WATER & LAND**

**Thursday, February 9, 2023  
9:30 A.M.  
State Capitol, Conference Room 430**

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

House Bill 1089 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 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

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

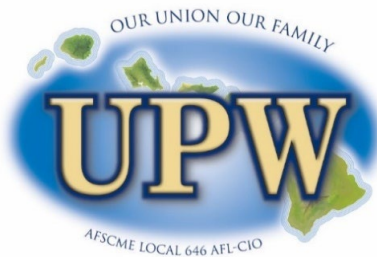
LAURA H.E. KAAKUA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE  
MANAGEMENT  
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LAND  
STATE PARKS

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 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 Water & Land**  
Rep. Linda Ichiyama, Chair  
Rep. Mahina Poepoe, Vice Chair

Thursday, February 9, 2023, 9:30 AM  
Conference Room 430 and via Videoconference

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

Chair Ichiyama, Vice Chair Poepoe, 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, 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

**HB-1089**

Submitted on: 2/8/2023 8:17:25 AM

Testimony for WAL on 2/9/2023 9:30:00 AM

| <b>Submitted By</b> | <b>Organization</b>   | <b>Testifier Position</b> | <b>Testify</b>       |
|---------------------|-----------------------|---------------------------|----------------------|
| Jim Coon            | TRILOGY<br>EXCURSIONS | Comments                  | Remotely Via<br>Zoom |

Comments:

If DOBOR wants to get out of the day to day management of small boat Harbors, then why not have a pilot program to move some of the Harbors that are mostly commercial back to DOT Harbors where the infrastructure and expertise already exist to manage these Harbors effectively.

**HB-1089**

Submitted on: 2/8/2023 7:53:14 AM

Testimony for WAL on 2/9/2023 9:30:00 AM

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

Comments:

I am opposed to HB 1089.

As a boater for 30 years in Hawaii, I find this bill to be **shrouded in mystery!**

What island? Which harbor?

There should be an established minimum of free public recreational parking stalls.

There should 30% of the total parking spaces maintained for the public. The total parking would include the staff, handicapped, loading and emergency stalls. The public parking stalls should be free for Hawaii residents.

We must protect Hawaii resident's rights to access the beach, ocean, surf sites, and for cultural practices.

**The complete design for the harbor should be available to the public before Bill submission.** We need to ensure that the harbor property does not become too private-or fenced in.

I find it ironic the this 'Government Bill' deletes the Government 'DOBOR' staff.

Does that meant DOBOR doesn't trust their own staff to get the harbor improvements done?

What happens after 20 years? It will be hard to get our public land back into public hands after this time period.

Kate Thompson

Ala Wai Boat Harbor

Recreational Slip Permittee #765



TESTIMONY OF Captain Margaret Hallahan I OPPOSE OF HB 1089 RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM.

Aloha Chairs, Vice Chairs, and Honorable Members of the Committees, My name is Captain Margaret Mary Hallahan and I am writing HB 1089 RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM. I live in San Francisco California, I am the president of the Outrigger Canoe group called Na Wahine O'ke Kai Outrigger in SF Bay. I have had the opportunity to canoe from our beach site in San Francisco bay for 40 years which we call O'Hana beach. I was introduced to Outrigger Canoeing by Master Waterman Steersman Napi at Anuenue Canoe Club 43 years ago. Three years later in the SF bay, I meet a canoe builder and Master Waterman Steersman Peter Balin from Maui. We were able to seed a Hawaiian Cultural Outrigger Canoe Base in SF Bay. We were the first canoe to welcome the [Hokulea](#) sunrise entry into the San Francisco bay with the Maritime Park Boat in 1995. We hosted the [Hikianalia](#) arrival in 2019 to our canoe site SF Aquatic Park. Please see the linked videos I made of the historic crossings. If Master Waterman Steersman Napi at Anuenue Canoe Club had not let me jump onto his canoe with one of the young paddlers 43 years ago all of this might of missed.

HB 1089 RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM WOULD HINDER ACCESS TO FISHING, OUTRIGGER COANING, SURFING AND BOATING.

As a licensed Captain, I have navigated near misses of swimmers with their surfboards in the channel. I called the officer of the day at the Coast Guard Station and they shared that surfers and swimmers have the full right to cross the channel at any time no matter how dangerous the swell is. As long as the swimmer or surfer is moving forward it is the boater's responsibility to avoid a coalition. Even if you must take your vessel into the rocks to avoid a coalition you must avoid the person in the channel at costs. This program could have surfers come Magic Island and paddle across an active boat channel to reach the highly popular and world-famous surf spot "Ala Moana Bowls." This causes serious safety issues for surfers and boaters alike, especially at dusk and dawn, besides the fact that the free-of-charge parking lot at Ala Moana Beach park is already overcrowded with the influx of new developments in Kaka'ako. We have already lots one surfer by boat coalitions in the channel it needs to never happen again. Non-local Captains come into the channel every day and are not aware to look out for surfers swimming across.

Mahalo for your time and consideration,

Captain Margaret Hallahan

[maggie@mhpv.net](mailto:maggie@mhpv.net)

**415-305-7553**

**HB-1089**

Submitted on: 2/8/2023 3:56:11 PM

Testimony for WAL on 2/9/2023 9:30:00 AM

| Submitted By | Organization | Testifier Position | Testify   |
|--------------|--------------|--------------------|-----------|
| Scott Allen  | Individual   | Oppose             | In Person |

Comments:

My name is Scott Allen and I have been a resident of Hawaii's small boat harbors for over a decade. I work as a Project Analyst at the Office of Planning and Sustainable Development and today I am offering my personal testimony in opposition of HB 1089.

My opposition to this bill rests on the desire to allow DLNR to lease any harbor entirely without legislative oversight or acceptable parameters to ensure equitable operations. Among the small boat harbor fee users are residents who have called the harbor home for decades. For them, a change in leaseholder means a change in landlord—potentially resulting in the loss of their home if the new leaseholder prohibits living on your boat or increases rent without restrictions.

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. These metrics should be determined ahead of considering a pilot and crafted alongside the harbor community to ensure reporting reflects the best interest of all users, including those who call the harbors home.

The need for oversight and parameters for equitable operations of our small boat harbors can be illustrated in policies put in place during the midst of the pandemic's economic shutdown. While the former governor called for a moratorium on rental evictions, DLNR doubled the effective rent of harbor residents with almost no notice to those it would impact most, forcing many disabled and elderly who were on fixed income to abandon their homes due to racking up fees for late or nonpayment.

I oppose this bill and encourage you to as well until DLNR can work with harbor communities to create a clear image of what leasing a harbor in its entirety looks like for various users, as well as how success would be collectively measured as serving the broader public interest.



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

RELATING TO A STATE BOATING FACILITY LEASE PILOT PROGRAM

### **Testimony submitted by:**

Katherine Lindell  
Honolulu, Hawaii  
[Katherine@HawaiiOceanNews.com](mailto:Katherine@HawaiiOceanNews.com)

On: February 7, 2023, @ 3PM

## **Testimony**

### **1) Unconstitutional Components**

**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.

### **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 reneging 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

Dear Hawaii state legislators,

My name is Sam Monet, I am a 77 year old native Hawaiian surfer, sailor and Ala Wai Live Aboard tenant. I filed a federal civil complaint, Ed Underwood, **Sharon Moriwaki, Claire Connors** etal. defendants alleging **fraud, corruption and related civil rights violations**. We go to trial in September. **Former AG Connors and Senator Moriwaki were given immunity by the court. Why do you need immunity if the complaint is not true?** Senator Moriwaki has received her full share of “campaign” contributions from Hughes and its surrogates to support this bill, yet she claims she opposes. She has lied to us many times, I have evidence of your corruption.

Many of you have received campaign contributions from Hughes, Ward and Hilton or their agents to support privatization of Ala Wai. **My parents built Ala Wai harbor, a public trust asset, for the people of Hawaii, not wealthy, foreign investors.** When you take the money and vote to give them what they want, you are violating the public trust.

We had a rally at the harbor about 2 weeks ago. **All of the local surfers, tax payers and VOTERS are opposed to any privatization of Ala Wai.** It is the last place in Waikiki for locals to access the beach FREE of charge. **Locals talk at dinner, they gather, talk at parties and at work. We talk to our friends and relatives. You burn Local Voters and they will remember next election.**

**Meghan Statts once testified before the Legislature stating that the public trust asset, the Ala Wai Harbor is a “cash cow” which nets over \$2million annually** despite over 35% of its piers are not rentable due to maintenance and other issues. Ala Wai is the only state entity with a net income. **Why would you sell or lease your cash cow?** A prudent investor would not do that.

No privatizing entity will put \$300 million into this harbor. **Projected Gross Income and time (sea level rise) just does not support that investment.** Their only goal is to acquire the harbor for **development of a super profitable, high rise condominium at the harbor office site.** All of the boaters and surfers know this.

5 years ago there was a 4 year wait list for Ala Wai’s legal, 159 live aboard slips and a 3 year wait list for its other 200 available slips. Today, demand has fallen, there is NO wait list for regular slips and because DLNR administrator Underwood secretly put a hold on new live aboard permits, there is only 59 live aboards at the harbor.

**Live aboards like me produce twice as much income per slip than other boats. The problem is that DLNR management has refused to prosecute or evict non live aboards, who do not pay that fee.** Many illegals would like a live aboard permit but Underwood has stopped issuing them. **So that lost income is the result of DLNR not performing its obligations under existing law** to provide those 100 boat owners their live aboard permits.

**Ala Wai Harbor boat owners have favored a community based management plan.** This would allow us to make sure our facilities are properly managed and maintained. This would eliminate corruption at the harbor. **Local surfer/voters do not want any changes at all.**

I urge you to amend this bill, do not give any entity carte blanche to privatize any public asset. If an advisory board is established make certain that some of its members come from the boating and surfing community at Ala Wai.