

ACT 160

H.B. NO. 1547

A Bill for an Act Relating to Small Boat Harbors.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The State's small boat harbors are important assets that are constructed, maintained, and operated for the purposes of recreational boating activities, landing of fish, commercial vessel activities, and interisland commerce. They have also been used historically for the interisland ferry. These state small boat harbors are centers of economic activity, and as such, must be managed and operated in a manner to facilitate recreation, commerce, and interisland transportation. Partnership with the community and private businesses can enhance successful management and operations of these facilities.

This Act is divided into two parts. Part one creates a task force in the department of land and natural resources to evaluate the feasibility and make recommendations about establishing a community-based management pilot program for one or more state small boat harbors. Part two provides additional incentives for operating interisland ferry service between Molokai and Maui, including the issuance of a commercial operating license and the waiver of applicable fees at Lahaina small boat harbor.

PART I

SECTION 2. The legislature finds that community-based management could allow those who are directly affected by the outcome of a decision regarding an issue of significance to them to be involved in the management of the facilities they utilize. They may benefit by participating in the planning and decision-making process. In effect, this will enable the participants to gain a greater sense of ownership and commitment. The legislature further finds that it is important to evaluate the feasibility of restructuring management of the State's small boat harbors. Allowing harbors that meet certain requirements to be converted into independent marinas could foster greater responsibility and accountability in the management of small boat harbors. Moreover, instituting a community-based management system in small boat harbors may help to streamline government services.

Currently, small boat harbors, which are regulated by the board of land and natural resources, are subjected to a multitude of rules, some of which have been shown to be excessive or costly. Converting small boat harbors into independent marinas could streamline services, cut costs, and increase revenues.

The purpose of this part is to create a task force within the department of land and natural resources to evaluate the feasibility and make recommendations about establishing a community-based management pilot program for one or more state small boat harbors.

SECTION 3. (a) As used in this Act, unless the context otherwise requires: "Board" means the board of land and natural resources.

"Department" means the department of land and natural resources.

"Marina board" means a duly elected board of a small boat harbor that is a not-for-profit organization registered and incorporated in the State of Hawaii.

“Pilot program” means the small boat harbors pilot management program.

“Small boat harbor” or “harbor” means a state small boat harbor constructed, maintained, and operated in accordance with chapter 200, Hawaii Revised Statutes.

“Task force” means a task force which includes individuals from throughout the State with experience as users of the various types of state small boat harbors and facilities, such as the chair of the marina boards of the Ala Wai harbor and Honokohau harbor. Two individuals would be chosen by the Senate President, two chosen by the House Speaker, and three chosen by the department. These individuals will serve without compensation.

(b) There is established within the department of land and natural resources for administrative purposes a task force to evaluate the feasibility of establishing a community-based management pilot program to provide that one or more small boat harbors be independently managed and administered by a marina board.

(c) The department shall convene a community-based management task force to:

- (1) Recommend the roles and responsibilities of the marina board;
- (2) Recommend the pilot program’s framework with goals and objectives;
- (3) Recommend guidelines and criteria for the process of qualifying, soliciting, evaluating, and selecting proposals. This may include but not be limited to such factors as the size and organization of the harbor, the harbor’s compliance with state statutes and rules, whether the harbor is truly representative of small boat harbor types including those with commercial use, and the financial feasibility of converting that small boat harbor into an independently managed marina in a manner that meets the fiscal and policy responsibilities of the department;
- (4) Recommend the required elements to be included in any lease or operating agreement between the marina board and the State. These elements may include but not be limited to specifying the responsibilities of the marina board relating to:
 - (A) The operations and management of the small boat harbor;
 - (B) The proportionate share of state debt attributable to the maintenance and repair of the marina facility that is outstanding on the effective date of the agreement;
 - (C) Liability issues;
 - (D) The mechanisms and procedures to collect, deposit, and disburse revenues generated by fee and permit collections from harbor users; and
 - (E) Expenses for the facility, including but not limited to operating expenses, debt service, payments for use of ceded land and the contribution to the costs of operating the State’s boating program;
- (5) Recommend the specific exemptions for the small boat harbor from state statutes and regulations;
- (6) Recommend a transition plan for the orderly transition of management and operations of the harbor;
- (7) Recommend the rights and responsibilities of the marina board relative to borrowing money for improvement projects to benefit the small boat harbor;
- (8) Evaluate the financial audit information to determine the feasibility of carrying out a community-based management pilot program and identify which harbors are the most suitable for the program;
- (9) Research any examples of similar arrangements of community-based management in public marina facilities in the United States; and

ACT 160

- (10) Submit a report on their findings and recommendations to the legislature no later than twenty days prior to the convening of the regular session of 1998.

PART II

SECTION 4. Section 200-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) [Vessels] Notwithstanding any limitations on commercial permits for Lahaina small boat harbor, vessels engaging in inter-island ferry service between the islands of Maui and Molokai shall be afforded preferential consideration for both ferry landings and other commercial purposes, including the issuance of a commercial operating permit and the waiver of any applicable fees, at Lahaina small boat harbor; provided that:

- (1) The vessel operator has been issued a certificate of public [conveyance] convenience and necessity for [this] the purpose[.] of engaging in inter-island ferry service between the islands of Maui and Molokai;
- (2) The design and performance characteristics of the vessel will permit safe navigation within the Lahaina harbor entrance channel and safe docking along the north face of the Lahaina pier; [and]
- (3) The vessel operations will not result in unreasonable interference with the use of Lahaina small boat harbor by other vessels[.]; and
- (4) All preferential consideration and waivers, including any commercial permits issued under this section, shall cease upon the vessel operator’s termination of inter-island ferry service between the islands of Maui and Molokai.”

PART III

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

(Approved June 16, 1997.)