

DAVID Y. IGE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committee on  
WAYS AND MEANS**

**Thursday, February 21, 2019  
10:00 AM  
State Capitol, Conference Room 211**

**In consideration of  
SENATE BILL 1385, SENATE DRAFT 1  
RELATING TO THE KANEHOE BAY REGIONAL COUNCIL**

Senate Bill 1385, Senate Draft 1 proposes to require the Department of Land and Natural Resources (Department) to provide administrative support to the Kāneʻohe Bay Regional Council (KBRC); requires that the chairperson of KBRC be selected by the members on an annual and rotating basis; and requires KBRC to meet quarterly. **The Department opposes this measure.**

While the Department recognizes the importance of KBRC in shaping the regulations relating to Kāneʻohe Bay, the Department notes that KBRC has served its intended purpose and recommends that KBRC be repealed from statutory provisions. In 1992, the Kāneʻohe Bay Master Plan was completed. In 1993, KBRC was created to facilitate implementation of the Kāneʻohe Bay Master Plan and provide Kāneʻohe Bay regulatory recommendations to the Department. On November 7, 2011, the recommendations in the Kāneʻohe Bay Master Plan were implemented as Section 13-256-73, Hawaii Administrative Rules (HAR).

As is the case with councils, committees, and other advisory entities implemented through HRS or HAR, the meetings of KBRC must follow "Sunshine Law" requirements, pursuant to Chapter 92, HRS. Meeting Sunshine Law requirements is often difficult for these advisory entities due to having to coordinate members' schedules. Further, KBRC is a voting council and is therefore required by Sunshine Law to have quorum to both hold its meetings and vote on matters. Because KBRC did not have quorum for a period of time, it could not meet or vote.

The Department has encountered scheduling issues with its Maunalua Bay Recreational Advisory Committee (MRAC). Although MRAC was non-voting and would not need to have

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
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CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

quorum, Department staff found difficulty in coordinating meetings to accommodate members' schedules, resulting in meetings being held infrequently and with only one or a few members. In 2018, the Department repealed language establishing MRAC from HAR provisions to allow MRAC more flexibility in scheduling its meetings.

To clarify, repealing KBRC from Hawaii Revised Statutes (HRS) would not cause KBRC to be eliminated nor prevent it from meeting. KBRC would still be able to meet with a more flexible schedule and would still serve in an advisory role to the Department. Likewise, Department staff would still plan to consult with KBRC for any matters regarding Kāneʻohe Bay before moving forward with any changes to its regulations.

The Department does not have adequate resources to fulfill the requirements of this bill as currently drafted. Should the Legislature decide not to repeal KBRC from HRS, the Department recommends that the Legislature include an appropriation in the amount of \$25,000 for half a position (0.5 FTE) and related administrative costs to provide administrative support to the KBRC, provided that this does not replace or adversely impact priorities indicated in the Executive Budget request.

Thank you for the opportunity to comment on this measure.



**Department of Land and Natural Resources  
Aha Moku Advisory Committee  
State of Hawaii  
Post Office Box 621  
Honolulu, Hawaii 96809**

Testimony of  
Aha Moku Advisory Committee

Senate Committee on Ways and Means

Thursday, February 21, 2019  
10:00 a.m.  
Conference Room 211

**In Support of  
Senate Bill 1385 SD 1 - Relating to the Kaneohe Bay Regional Council**

Aloha Chair Dela Cruz, Vice-Chair Keith-Agaran, and members of the Committee,

Mahalo for the opportunity to give testimony on Senate Bill 1385 SD 1 which requires the Department of Land and Natural Resources (DLNR) to provide administrative support to the Kaneohe Bay Regional Council (Council). It also requires that the chairperson be selected by the members on an annual and rotating basis; and requires the Council to meet quarterly.

Since the restoration of the Aha Moku Process by the Legislature in 2012, via Act 288, §171.4-5, the Aha Moku Advisory Committee (AMAC) has successfully brought the voices of the communities and 'ohana of ahupua'a districts forward to work with Hawai'i government in addressing and sustaining the natural and cultural resources of our Pae'Aina. On behalf of the Hawaii State Aha Moku Advisory Committee and the Ko'olaupoko Moku we stand on strong support for this measure.

The Ko'olaupoko Moku encompasses eleven ahupua'a, nine of which border or are majorly impacted by the Kaneohe Bay. Those ahupua'a are: *Kaneohe, Heeia, Kahaluu, Waihee, Kaalea, Waihole, Waikane, Kakipuu and Kualoa*. Since the Council was created in 1992, and the Master Plan was completed in 1993, the communities of the nine ahupua'a have continuously consulted and conversed with Council members, usually on issues that government has no background or working knowledge of. For instance, in February 2019, a kuka was held where every ahupua'a representative of the Ko'olaupoko Moku attended, to discuss, among other issues, the whale carcass that had been brought recently into Kaneohe Bay by winter currents. Two members of the Council were present at this kuka and will take the consensus reached by the group back to the Kaneohe Bay Regional Council. A DLNR representative was also part of this meeting. This is only one example of an issue important to the people that is not covered in the Master Plan. No Master Plan can stay rooted in concrete for 25 years when the resources that it is supposed to protect ebb and flow with the tide, every changing at nature's will.

While we appreciated that DLNR recognizes the importance of the Council in shaping regulations relating to Kaneohe Bay, we also know that the Council continues to serve their community, and the larger communities on the windward side of O'ahu. Since the Council was created in 1992, the communities of the Ko'olaupoko Moku, including the Kaneohe Ahupua'a have continued to converse and consult with the Council members on matters that continue to be of importance to the health, well-being and sustainability of Kaneohe Bay. The Council provides a great service to the people of the Ko'olaupoko Moku. It needs to stay a part of the Hawaii State structure.

We believe that having the administrative support from DLNR would strengthen the mandates and motivation needed for the Council. And should the Council be repealed from Hawaii Revised Statutes (HRS), it would cease to exist, the reality of the situation is that it would no longer have the credibility that only comes with being part of the state structure. DLNR

may say that it will continue to consult with the members, but DLNR staff would not be obligated to. The checks and balances that are provided by a Council comprised of those who are stakeholders in the protection of the natural and cultural resources of Kaneohe Bay would cease to exist. Currently, in the Master Plan, one of its main mandates was to limit existing commercialism, and to not allow new commercial businesses to begin because the finite natural resources of the Bay were already compromised and exhausted by over-use and crowding. However, that mandate is stretched because of the exceptions given to new commercial businesses. The only protection of the Master Plan is through the Kaneohe Bay Regional Council. The unique resources of Kaneohe Bay need to be protected so all can enjoy them. People from all over the world come to Kaneohe Bay, including scientists who come to study and research the special resources of the Bay. Just last year, 2018, 90 scientists from around the world, sponsored by the Smithsonian Museum, came to study our resources, and found over 300 un-named marine species in Kaneohe Bay.

Thank you for giving us the opportunity to testify on this measure, and we urge the Senate Ways and Means Committee to support and pass Senate Bill 1385 S.D. 1. It is vitally important to the people of the Windward side of O'ahu.

Aloha Pumehana,

Rocky Kaluhiwa, Hawaii State Aha Moku Advisory Committee Po'o, Moku O Kakuhihewa (Island of O'ahu)  
Ko'olaupoko Moku, Ahupua'a of Heeia Representative  
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**SB-1385-SD-1**

Submitted on: 2/20/2019 1:07:26 AM

Testimony for WAM on 2/21/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	Testifying for O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:



**SB1385 SD1**  
**RELATING TO THE KĀNE'ŌHE BAY REGIONAL COUNCIL**  
Senate Committee on Ways and Means

February 21, 2019

10:00 a.m.

Room 211

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The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB1385 SD1, which would remove any confusion regarding the extent to which the Department of Land and Natural Resources (DLNR) may provide administrative support to the Kāne'ōhe Bay Regional Council (KBRC).

The KBRC was established in order to assist in the adaptive implementation of the Kāne'ōhe Bay Master Plan, a community-driven planning document developed through the tireless efforts of longtime community members, including Native Hawaiian families with long, multigenerational ties to the region, to address a broad range of concerns over human activities in the culturally significant Kāne'ōhe Bay. Given the Plan's many cultural components and considerations, OHA is identified as a voting member of the KBRC. The DLNR, meanwhile, is the agency with direct regulatory jurisdiction over many of the activities discussed in the Master Plan; accordingly, the KBRC is appropriately housed within the DLNR.

Unfortunately, current statutory language states that "the [DLNR] shall not provide administrative support to the [KBRC], including providing staff, drafting, and other support at council meetings." This provision has resulted in substantial confusion over the degree to which DLNR staff may provide much-needed support to the KBRC, particularly given the DLNR Division of Aquatic Resources Administrator's role as chairperson of the KBRC, and the DLNR's direct regulatory role over provisions in the Kāne'ōhe Bay Master Plan. While OHA has sought to coordinate with DLNR staff to facilitate KBRC meetings, the continued confusion as to what this statutory provision actually prohibits DLNR from doing has substantially inhibited the KBRC from meeting and otherwise carrying out its important work.

Accordingly, OHA believes that the proposed removal of the statutory provision at issue, as well as the proposed amendments regarding the frequency of meetings and rotating chairperson roles, will greatly assist the KBRC in meeting its statutory mission.

Therefore, OHA urges the Committee to **PASS** SB1385 SD1. Mahalo nui for the opportunity to testify on this matter.



# KO'OLAUPOKO HAWAIIAN CIVIC CLUB

February 21, 2019

To: Sen. Donovan Dela Cruz, Chair  
& Members, Ways & Means Committee

From: Alice Hewett, President  
Ko'olaupoko Hawaiian Civic Club

Subject: S.B.1385, S.D. 1 – Relating to Kaneohe Bay Regional Council – SUPPORT

On behalf of the members of the Ko'olaupoko Hawaiian Civic Club, we extend our aloha and best wishes for a productive and successful session:

Our civic club, which is the largest grassroots Hawaiian organization in the Kane'ohē Bay region, strongly supports S.B. 1385, S.D. 1, which would improve statutory language governing the Kane'ohē Bay Regional Council.

The council has been relatively ineffective for a number of years, in part because there has been no regular, meaningful staff support from the Department of Land and Natural Resources. The DLNR has been charged with this kuleana, to chair this important community entity; but they are prohibited from providing staff support to enable their staff to post notices of meetings, take notes, or prepare minutes. This sets up the Kane'ohē Bay Regional Council for failure, because they are unable to meet since DLNR controls the chairmanship but is forbidden to provide support.

Our community is deeply committed to protecting the natural and cultural resources of this bay, and many of us were part of the struggle to get this important regional council established. This council is supposed to help balance all of the competing users – or interests – in the bay to ensure that Kane'ohē bay is a healthy and sustainable environment.

We've asked for these changes because we feel this will help make this Council relevant again. There are many issues in the bay that need attention. Most of the vacant seats on the council have been filled, but DLNR can't call a meeting because that would violate the language of this law. DLNR officials have contended that they don't have enough staff, but their vacancies go unfilled.

They also say the council can schedule their own meetings and avoid the sunshine law – this is an odd argument, to say the least. This quasi-government council, which includes both government and community members, would have a much greater voice if meetings were properly guided under the State Sunshine Law.

We urge your support and passage of this bill. Mahalo.

*The Ko'olaupoko Hawaiian Civic Club was established in 1937 and is one of the largest in the Association of Hawaiian Civic Clubs nationwide. Ko'olaupoko HCC is a not-for-profit community organization dedicated to preserving and perpetuating the history, heritage and culture of Native Hawaiians and providing leadership and scholarships. Its membership is open to people of Hawaiian ancestry and those who are "Hawaiian at heart."*

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*Ko`olau Foundation*

P. O. Box 4749  
Kane`ohe, HI 96744

February 15, 2019

To: Sen. Donovan Delacruz, Chair  
Sen. Gilbert Keith-Agaran, Vice Chair  
& Members, Committee on Ways & Means

From: Aaron Mahi, President  
Ko`olau Foundation

Subject: Testimony in Support of S.B. 1134, S.D.1 – He`eia State Park

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran and Committee Members:

The Ko`olau Foundation strongly supports Senate Bill 1134, Senate Draft 1, which would provide funding for a community-based, longrange plan for He`eia State Park and for an education center for the He`eia National Estuarine Research Reserve.

Our foundation has long advocated for preservation of historic sites and cultural properties, and the valuable cultural areas of this park – also known as Kealohi – are important to our Hawaiian community and to the broader Kane`ohe bay region.

Unfortunately, this park has evolved into a focus on recreational and commercial uses, with little or no regard for the rich cultural resources of the heiau, Kala`eulaula, or of the leina at Kealohi Point. This “leaping-off” point is legendary in the Kane`ohe bay region.

We wish to emphasize that the longrange, community-based plan for this park should engage and involve the partner members of the He`eia NERRS, which includes both agency and grassroots community organizations with generational ties to the lands of Kealohi and the waters of Kane`ohe Bay.

We urge your concurrence and approval of this request for funding.

Mahalo for your consideration of our mana`o.



**SB-1385-SD-1**

Submitted on: 2/20/2019 9:41:19 AM

Testimony for WAM on 2/21/2019 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Dylan P. Armstrong	Individual	Support	No

Comments: