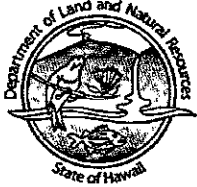


DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

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Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
OCEAN, MARINE RESOURCES, & HAWAIIAN AFFAIRS

Friday, February 3, 2017
9:30 AM
State Capitol, Conference Room 312

In consideration of
HOUSE BILL 1120
RELATING TO SPECIAL SHORELINE ENCROACHMENT EASEMENTS

House Bill 1120 proposes to provide the Board of Land and Natural Resources (Board) discretion to grant easements for less than fair market value for structures that were authorized by a governmental authority and located landward of the shoreline within the record boundary of the property at the time of construction, but are now located seaward of the valid certified shoreline on public land. **The Department of Land and Natural Resources (Department) strongly supports this Administration measure.**

Many of these structures were constructed mauka of the shoreline by private landowners to benefit their property, i.e., as shoreline protection structures. Over the years, many of these structures are now situated within or seaward of the shoreline and are a liability concern. In exchange for the granting of an easement, the Department requires insurance and indemnity protection. The problem under current law is that the Board must charge fair market value as determined by an appraiser for the easement. This bill seeks to remedy that problem by allowing the Board the discretion to grant the easement at below fair market value if the structure was authorized by a governmental authority and originally constructed landward of the shoreline within the record boundary of the landward property at the time of construction, but is now located seaward of the shoreline on public land.

Considering that the structures were originally built on private property with governmental approval and mauka of the then existing shoreline, waiving the requirements for prior approval of the Governor and prior authorization from the Legislature pursuant to Section 171-53, Hawaii Revised Statutes (HRS), should not compromise any of the government's fiduciary obligations. In addition, given the volume of easements that are expected to be processed, this exemption

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

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

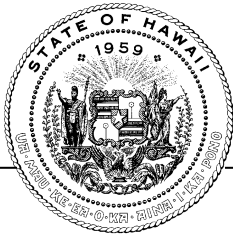
AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

would greatly expedite the disposition process. Allowing the easements to be granted at less than fair market value via a streamlined process¹ would assist in encouraging compliance from littoral landowners entering into easements with the State. By resolving the liability and indemnity issues, taxpayers will have greater protection from potential legal and financial liability against the State with regard to these structures. By facilitating compliance from landowners, this bill will reduce the burden on staff resources from having to pursue enforcement actions.

Enactment of this measure will not negatively impact beach resources or proliferate shoreline hardening. The bill does not act as a substitute to any permitting requirements as shoreline protection structures will still be subject to all existing state and county regulatory requirements. Furthermore, current Department practice requires that prior to taking any request for a shoreline encroachment easement to the Board for approval all such requests are subject to review by the Department's Office of Conservation and Coastal Lands ("OCCL"). As part of their review criteria, OCCL examines whether the continued presence of the encroachment will detrimentally impact the existing coastal resources.

Thank you for your consideration of this measure.

¹ The appraisal process under Section 171-17, HRS, can sometimes be expensive and time consuming.



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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
**HOUSE COMMITTEE ON OCEAN, MARINE RESOURCES, AND HAWAIIAN
AFFAIRS**

February 3, 2017
9:30 AM

State Capitol, Conference Room 312

in consideration of
HB 1120
RELATING TO SPECIAL SHORELINE ENCROACHMENT EASEMENTS

Chair Ing, Vice Chair Gates, and Members of the House Committee on Ocean, Marine Resources, and Hawaiian Affairs.

The Office of Planning (OP) respectfully offers the following comments on this measure:

This bill opens a door to private property owners to maintain their existing shoreline structure, and likely requests for repairs, as well as emergency repairs of their existing shoreline structures. In addition, this bill establishes a policy where shoreline protection structures (e.g., seawalls) currently located within private land(s), will be granted shoreline encroachment easements in the future from the State.

Please note that at the beginning of HB 1120: "When an encroachment is discovered, it may be resolved by either removal or obtaining an easement from the department." HB 1120 encourages the preservation of the existing shoreline structures, which is opposite to the increasing efforts to deal with the threats of coastal hazards on Hawaii's coasts.

Thank you for the opportunity to testify on this measure.

I write in support of House Bill 1120.

I am one of the owners of a property in Kapaa, Kauai known as the Kauai Kailani, which has undergone significant erosion and loss of beach since our involvement in doing a rehabilitation of the property that was built in the '60s. The shoreline has approached within a dozen feet of the closest condominium.

We believe that House Bill 1120 will make it easier to replace a groin which was required to be removed when we undertook this project. A groin that was in the ocean at the time the project was acquired was removed in response to a letter from the DLNR in 2013. This groin replacement may provide assistance to the owners who very badly need permanent protection to prevent further erosion.