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HB 1174 RELATING TO DISPOSITION OF LANDS

House Committee on Ocean Recreation and Marine Resources
House Committee on Water and Land Use

Public Hearing, February 10, 1999
8:30 a.m., Room 312, State Capitol

By
John Harrison, Environmental Center
M. Casey Jarman, School of Law

HB 1174 would amend Section 171-53, HRS, to provide that the leasing of submerged lands set aside by the Governor for commercial or recreational harbors shall not be subject to prior authorization by the Legislature.

Our comments on this measure are compiled from voluntarily submitted opinions of the listed academic sources, and as such, do not constitute an institutional position of the University of Hawaii.

Required approvals of the Executive and the Legislative branches of government prior to lease of submerged lands as provided in Section 171-53 reflects the recognition by the Legislature of the fact that these are Public Trust resources. Thus, their care and management are entrusted to the government to ensure that the public interest in them is not subdivided and apportioned to one or more persons or groups of people without full governmental deliberation and concurrence. Exceptions in Section 171-53 reflect localized, and generally non-interfering uses such as cables and pipelines having benefit to a broad sector of the community.

Submerged lands also are Ceded Lands, with particular rights and benefits allocated by law to the Native Hawaiian community. Revenues from uses of Ceded Lands thus must be apportioned to the direct benefit of the Native Hawaiian community.

We suggest that the disposition of submerged lands held in trust by the government for the benefit of the people deserves the most thoughtful consideration. Thus, we do not concur with the intent of this measure.