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RL:01373

## HB 2874 RELATING TO OCEAN LEASING

House Committee on Ocean and Marine Resources

Public Hearing - February 5, 1998  
8:30A.M., Room 312 State Capitol

By

John T. Harrison, Environmental Center  
Bruce Carlson, Aquarium  
Paul Jokiell, Hawaii Institute of Marine Biology  
James Parrish, Hawaii Cooperative Fishery Unit

HB 2874 would amend Chapters 171 and 190D, HRS to delete the requirement for prior legislative authorization for ocean leasing to private entities for commercial purposes, including mariculture, to generalize the definition of "state marine waters", and to allow deposition of lease revenues to be deposited into the Special Land and Development Fund.

Our statement on this measure is compiled from voluntarily submitted opinions of the listed academic reviewers, and as such, does not constitute an institutional position of the University of Hawaii.

Our reviewers cautiously support the intent of this measure, and they express some concerns with certain language and provisions as noted.

First, with regard to the definition of "state marine waters," we note that submerged lands of the state have been identified as ceded lands, and we wonder whether the consequent removal of specific reference to submerged lands might lead to oversight in the responsibilities accruing to the state and to lessees regarding such lands. Also, the definition invokes the term "economic unit" without specifying exactly what is meant by such terminology. It would be useful to expand this definition somewhat to avoid presumptive interpretation in the future.

In the same definition, there is reference (Page 4, lines 13 - 15) to the limits of the state's police and management authority extending into and including the United States territorial sea. While federal authority, pursuant to the doctrine of federal supremacy, may legitimately be extended into waters within the State's limit of jurisdiction, this language may be challenged at the federal level, particularly if there is a perceived conflict in policy or economic interest.

h/kt 10/5/11

On page 6, lines 1 and 2, potential problems with enclosure boundary enforcement may be avoided by generalizing the description of boundary marking devices. Thus the phrase, "or any other devices" after the word "monuments". A similar change should be made on page 14, line 14-15.

While we support the idea of having lessees post a bond (page 12, lines 4-16) we suggest that some provision be included for explicit protection of the full spectrum of the affected environment. Thus we suggest including the phrase, "and restoration or remediation of the waters and submerged lands to the satisfaction of the department" following the word, "cultivated" on line 12.