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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
WATER, LAND, & HAWAIIAN AFFAIRS**

**Friday, February 8, 2019
8:30 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1326
RELATING TO WATER RIGHTS**

House Bill 1326 proposes to allow holdovers of revocable water permits to continue until the pending application for a lease is resolved. The measure also proposes to 1) require prompt execution of contested case proceedings for one year holdovers, 2) allow holdovers to continue pending completion of contested case proceedings, and 3) remove repeal and reenactment provisions relating to Section 171-58(c), Hawaii Revised Statutes (HRS). **The Department of Land and Natural Resources (Department) offers the following comments.**

The Department acknowledges the need for additional time to convert existing water revocable permits to long term leases. As the State's public trust obligations are integral in the management of its water resources, the water leasing process is appropriately complex and time consuming, requiring oversight and approvals from several State agencies. Within the Department, staff from Land Division (LD), Division of Forestry and Wildlife (DOFAW), and the Commission on Water Resource Management (CWRM) are working in collaboration with the Attorney General (AG) and the Department of Hawaiian Homelands (DHHL) to establish and implement a water leasing process that is fair, transparent, compliant with statutory requirements and consistent with the public trust. Additionally, the permittees are working with the agencies to obtain long term leases.

The Department appreciates concerns that the measure allows for the potential holdover of revocable permits for an indefinite period of time, provided the lease is actively pursued. However, the Board of Land and Natural Resources (Board) also retains the discretion to cancel a revocable permit if the permittee fails to act in good faith to obtain a lease. Any decision to cancel would be heard by the Board in an open, sun-shined meeting offering the public an opportunity to testify on the matter. Additionally, given the proposed amendments in section 3 of this measure, it appears that Act 126, Session Laws of Hawaii 2016, already provided for continued holdover for the revocable permits beyond the initial three year period. Furthermore,

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

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FIRST DEPUTY

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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

the provisions in the measure relating to contested cases would serve to ensure the due process interests of all parties.

Thank you for the opportunity to comment on this measure.