

HOLD FOR MEETING

August 2, 2023, GREAT meeting

MAUI COUNTY COUNCIL
Amendment Summary Form

Legislation: Resolution 23-185, entitled “APPROVING FOR INCLUSION IN THE 2024 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE A STATE BILL RELATING TO COMMERCIAL USE OCEAN PERMITS.”

Proposer: Councilmember Tamara Paltin. 

Description: Delete language in Resolution 23-185 which does not accurately reflect DLNR’s already existing scope of authority and its duty to exercise discretion.

Motion: Move to amend by:

1. In Resolution 23-185, strike the third Whereas clause and replace with language from current permit conditions; and
2. In Section 1 of the proposed bill, strike “must” in the first paragraph and “give” in the second paragraph and replace language.

Effect: In Ramseyer format, the changes are as follows:

WHEREAS, [allowing the Department of Land and Natural Resources to deny permit renewals to protect the right to a clean and healthful environment will help to lessen the impacts of commercial use ocean vessels and activities; now, therefore.] current DOBOR permits contain this standard condition: “The Department may immediately revoke a commercial use permit without a hearing for activity that endangers or may endanger the health and safety of passengers or the public, and may suspend or revoke a commercial use permit for violation of any rules of the Department, if the activity or offense is not corrected following seventy-two (72) hours notice by the department of the violation. The permit holder shall have ten (10) days from receipt of the notice of suspension or revocation to request in writing an administrative hearing. The administrative hearing is solely for the purpose of allowing the permit holder to contest the basis for suspension or revocation of the permit.”

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BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill attached as Exhibit “A,” relating to commercial use ocean permits, is approved for inclusion in the 2024 Hawaii State Association of Counties Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Hawaii State Association of Counties Executive Committee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that there has been an increase in increase in applications and issuance of commercial use ocean permits and renewals. The legislature further finds that the Department of Land and Natural Resources [must] often issues all commercial use ocean permits and permit renewals to individuals or businesses that meet the minimum requirements, regardless of nearshore water capacity or potential harm to the environment.

The purpose of this Act is to [give] encourage the Department of Land and Natural Resources to exercise its discretion in issuing commercial ocean use permits and permit renewals to lessen the impacts of commercial use ocean vessels and activities.

Reasons: DOBOR has and is already required by rule and the State Constitution to exercise discretion to protect the public, the environment, and the traditional and customary Native Hawaiian practices and rights.