



STATE OF HAWAII
DEPARTMENT OF HEALTH
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Committee on Legislative Management

HB2510 HD1, Relating to the Environment

Testimony of Laurence K. Lau
Acting Director of Environmental Quality Control
February 12, 2008

1 **Office's Position:** The Office of Environmental Quality Control (Office) respectfully
2 opposes this bill as written.

3 **Fiscal Implications:** HB2510 HD1 appropriates \$300,000 of general funds. We ask that any
4 appropriation not adversely affect the priorities in the executive supplemental budget proposal.

5 **Purpose and Justification:** This measure provides an appropriation for the Legislative
6 Reference Bureau (LRB) to contract with the University of Hawai'i to perform a study of the
7 State's environmental review process. The study will include HRS Chapter 341, which created
8 the Office of Environmental Quality Control, the Environmental Council, and the Environmental
9 Center, HRS Chapter 343, the State's environmental review law, and HRS Chapter 344, the
10 State's environmental policy act.

11 We believe that the Office should be the contracting and approving agency, instead of the
12 LRB.

1 While we acknowledge the good work of the University in the past, as a general matter,
2 we recommend that such a large contract be subject to a competitive request for proposal
3 process.

4 As noted in the HD 1 committee report, the requested study and appropriation are
5 included in HB 2688, HD1, the supplemental legislative appropriations bill, and that bill has
6 been transmitted to the Governor.

7 Thank you for the opportunity to testify.



**The Chamber of
Commerce of Hawaii**
Since 1850

**Testimony to the House Committee on Legislative Management
Tuesday, February 12, 2008 at 2:00 p.m.
Conference Room 423, State Capitol**

RE: HOUSE BILL NO. 2510 HD1 RELATING TO THE ENVIRONMENT

Chairs Magaoay, Vice Chair Tokioka, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports HB 2510 HD1 with a proposed amendment.

The Chamber is the largest business organization in Hawaii, representing 1100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. The organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

H.B. No. 2510 HD 1, provides an appropriation to the Legislative Reference Bureau to contract with the UH for a study to modernize Hawaii's EIS process.

We understand that the 2006 legislature passed Act 294 which appropriating money to the University of Hawaii environmental center to perform a comprehensive review of the State's current environmental impact statement process under chapter 343, Hawaii Revised Statutes.

The study was initiated but never completed due to internal errors in procurement of the contract by the department of health. Therefore, the intent of this Act is to revive this study, provide it stronger support, and to focus it more specifically on developing a strategy for modernizing Hawaii's environmental review system.

The Chamber, along with a number of other organizations, has become aware of the need for a comprehensive review of Chapter 343, HRS based on the "unintended consequences" of recent court decisions. The Chamber is advocating legislation to address the immediate problems created by the recent court decisions, while working on the comprehensive review of Chapter 343. The legislation to address the immediate problems should have a sunset to coincide with the comprehensive review.

The bill presently requires the Legislative Reference Bureau to contract with UH to conduct a study that:

1. Examine the effectiveness of the current environmental review system created by chapters 341, 343, and 344, Hawaii Revised Statutes;
2. Assess the unique environmental, economic, social, and cultural issues in Hawaii that should be

Page 2

The Chamber of Commerce of Hawaii Testimony on HB 2510 HD1
February 12, 2008

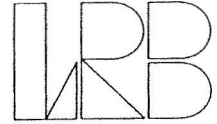
- incorporated into an environmental review system;
3. Address larger concerns and interests related to sustainable development, global environmental change, and disaster risk reduction; and
 4. Develop a strategy, including recommendations for proposed legislation, for modernizing Hawaii's environmental review system so that it meets international and national best practices standards.

The Chamber strongly supports the need for a comprehensive review of Chapter 343 that includes as part of environmental impacts, economic impacts as well. We strongly recommend that the bill be amended to include a statement on the legislative intent so that the revised environmental review process will continue to be a "public disclosure" process that identifies impacts and a range of mitigation measures for proposed actions only. We believe that it should not become a layer of government ministerial or discretionary permitting.

Thank you for this opportunity to express our views.

Ken H. Takayama
Acting Director

Research (808) 587-0666
Revisor (808) 587-0670
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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

HB2510, HD1

RELATING TO THE ENVIRONMENT

**Presented to the House Committee on Legislative Management
Twenty-fourth State Legislature, Regular Session of 2008
By Ken H. Takayama, Acting Director
Legislative Reference Bureau
Tuesday, February 12, 2008**

Chair Magaoay and Members of the Committee:

Thank you for this opportunity to testify on H.B. No. 2510, H.D. 1. The Legislative Reference Bureau (Bureau) takes no position for or against this measure, but submits the following comments:

- This measure directs the Bureau to contract with the University of Hawaii through the Research Corporation of the University of Hawaii to conduct a study on various aspects of the State's environmental laws.
- Funding for the study has been appropriated through the legislative budget bill, H.B. No. 2688, which is not awaiting the Governor's approval.
- We understand that this measure establishes the parameters of the study to be performed by the University of Hawaii.

Thank you very much for this opportunity to testify.



Legislative Testimony
HB 2510, HD 1, RELATING TO THE ENVIRONMENT
House Committee on Legislative Management
February 12, 2008 2:00 p.m.
Room: 423

The Office of Hawaiian Affairs (OHA) **SUPPORTS** HB 2510, HD 1, which would appropriate funds for the Legislative Reference Bureau to contract with the University of Hawai'i (UH) to revive a 2006 Environmental Center study to advise the State on how to improve upon our existing environmental review process.

OHA agrees with the Legislature that the existing Environmental Impact Statement section in Hawaii Revised Statutes (HRS) Chapter 343 has provided the State with a good, balanced baseline. We also agree that it warrants review to assure that it continues to meet the State's current environmental, cultural and human health needs. The existing statutes could use some clarification and amendments, and any such changes should be implemented in a comprehensive, thorough and coordinated manner, instead of in a piecemeal, reactionary one.

Hawai'i's environmental review process strives to create a balanced decision-making arena for developers and managing agencies: balancing development/economic needs with environmental/health needs. This balanced approach, with ample public participation, provides government agencies with enough information to make informed decisions on development proposals. OHA, the sole public agency responsible to assess the policies and practices of other agencies impacting on Native Hawaiians, supports this bill because it should have a positive effect on various State agencies' abilities to properly assess the environmental, cultural and aesthetic impacts of all proposed developments that trigger Chapter 343, HRS.

OHA looks forward to receiving a copy of this report, and hopes that we would be involved in any discussions of the current Cultural Impact Assessment (CIA) requirement under Chapter 343, HRS. We continue to applaud the inclusion of this important element in impact analysis and hope that the CIA will continue to be included, with more guidance offered to applicants on the requirements of a cultural analysis.

OHA compliments the Legislature on this bill's list of UH programs that would be included on the panel. We question, however, whether the contract should be with the Department of

Urban and Regional Planning. We would suggest contracting instead with the William S. Richardson School of Law, which, through their nationally ranked Environmental Law Program, would likely have more expertise in this arena.

OHA urges the Committee to PASS HB 2510, HD 1, taking the above concerns into account. Thank you for the opportunity to testify.



UNIVERSITY
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MĀNOA

RL: 2157

HB 2510 HD 1
RELATING TO THE ENVIRONMENT

House Committee on Legislative Management

Public Hearing – February 12, 2008
2:00 p.m., State Capitol, Conference Room 423

By
Peter Rappa, Environmental Center
Jacquelin Miller, Environmental Center

HB 2510 HD 1 provides appropriation to the Legislative Reference Bureau to contract with the University of Hawaii for a study to modernize the State of Hawaii's Environmental Impact Statement process. Our statement on this measure does not represent an institutional position of the University of Hawaii.

The Environmental Center supports the intent of this bill. Established by Act 132 of the 1970 Legislature, the UH Environmental Center is one of three entities that comprise the State's environmental quality infrastructure, along with Office of Environmental Quality Control and the State Environmental Council. Performing research, education and service functions, the Center has served as a repository of scholarly expertise and advisory consultation on matters related to the State EIS system. In this capacity, the Environmental Center on two prior occasions has conducted comprehensive studies of the State EIS system (Cox, et al., 1978; Rappa, et al., 1991). Each of these prior studies was commissioned in response to recognition of the need to reconcile evolving State environmental management needs with the statutory and regulatory frameworks of the EIS system. Each contributed recommendations for amendments in provisions of these frameworks, most of which subsequently were adopted.

In the 17 years that have elapsed since our review of the EIS system in 1991, numerous changes have occurred in the theory and practical application of environmental management. Advances in understanding of ecological relationships, growing appreciation of more subtle implications of human impacts on natural systems, and evolving policy formulations within government agencies with environmental management responsibilities have created new challenges for professional environmental managers. These challenges have led to both general and particular shortcomings in the ability of existing EIS procedures to deal adequately with new

and continuing development proposals. Under the present EIS laws, one example of an area of inadequacy is the treatment of cumulative impacts. Thus, events such as the October 2004 Manoa flooding, or the problematic traffic congestion in Kona reflect ways in which individually sound decisions have led to problematic cumulative impacts.

In 2007, the Environmental Center was contracted to conduct a third review of the process, but due to an administrative error by the Department of Health the appropriation of funds had lapsed before the project could get started. We are prepared to conduct the study this year and in light of recent events we feel that a review is necessary.

We believe only a comprehensive review of the state EIS process called for in this bill can make recommendations for change that are meaningful. We believe that the level of funding provided for in this bill is adequate to complete the task.

Thank you for the opportunity to comment on this bill.

References

Cox, D.C., P.J. Rappa, and J.N Miller. 1978. The Hawaii State Environmental Impact System. Final Report to the Office of Environmental Quality Control. 167 pp + Appendices.

Rappa, P.J., J.N. Miller, and C.D Cook. 1991. The Hawaii State Environmental Impact System: Review and Recommended Improvements. Report to the Office of Environmental Quality Control. 99 pp + Appendices.

**Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 2510 HD 1 Relating to the Environment
House Committee on Legislative Management
Tuesday, February 12, 2008, 2:00PM, Room 423**

The Nature Conservancy of Hawai'i is a private non-profit conservation organization dedicated to the preservation of Hawaii's native plants, animals, and ecosystems. The Conservancy has helped to protect nearly 200,000 acres of natural lands for native species in Hawai'i. Today, we actively manage more than 32,000 acres in 11 nature preserves on O'ahu, Maui, Hawai'i, Moloka'i, Lāna'i, and Kaua'i. We also work closely with government agencies, private parties and communities on cooperative land and marine management projects.

The Nature Conservancy of Hawaii supports H.B. 2510 HD 1 Relating to the Environment.

The health of Hawaii's unique but threatened natural resources directly affects our economy and quality of life. Residents and visitors alike are awed and inspired by the Hawaiian Islands' natural wonders. Beyond breathtaking beauty, these resources provide essential natural services that make life possible in the middle of the vast Pacific Ocean. From native forests that give us fresh water, erosion control, and cultural treasures, to abundant coral reefs that provide food, recreation, and protection from storms, we all depend daily on nature to sustain us.

Now more than ever in the past, we have come to appreciate the importance of balancing environmental protection with the obvious need to maintain a vibrant economy that supports and does not threaten the needs of future generations. It is appropriate at this time to take a thorough look at Hawaii's environmental review system. Rather than take a piecemeal or hasty approach, we think it is worth a bit of extra time and effort to undertake the comprehensive review of HRS Chapters 341, 343 and 344 as proposed in this bill.

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BIA-HAWAII

BUILDING INDUSTRY ASSOCIATION

February 12, 2008

Committee on Legislative Management

Conference Room 423

2 p.m.

The Honorable Representative Michael Magaoay, Chair, and Members
Committee on Legislative Management
State House of Representatives, Room 423
Honolulu, Hawaii 96813

Dear Chair Magaoay and Members:

Subject: House Bill No. HB 2510, HD 1 Relating to the Environment

I am Karen Nakamura, Chief Executive Officer of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii supports H.B. No. 2510, HD 1, with a proposed amendment.

H.B. No. 2510 HD 1, provides an appropriation to the Legislative Reference Bureau to contract with the UH for a study to modernize Hawaii's EIS process.

We understand that the 2006 legislature passed Act 294 which appropriating money to the University of Hawaii environmental center to perform a comprehensive review of the State's current environmental impact statement process under chapter 343, Hawaii Revised Statutes.

The study was initiated but never completed due to internal errors in procurement of the contract by the department of health. Therefore, the intent of this Act is to revive this study, provide it stronger support, and to focus it more specifically on developing a strategy for modernizing Hawaii's environmental review system

BIA-Hawaii, along with a number of other organizations, has become aware of the need for a comprehensive review of Chapter 343, HRS based on the "unintended consequences" of recent court decisions. BIA-Hawaii is advocating legislation to address the immediate problems created by the recent court decisions, while working on the comprehensive review of Chapter 343. The legislation to address the immediate problems should have a sunset to coincide with the comprehensive review.

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3. Address larger concerns and interests related to sustainable development, global environmental change, and disaster risk reduction; and
4. Develop a strategy, including recommendations for proposed legislation, for modernizing Hawaii's environmental review system so that it meets international and national best practices standards.

BIA-Hawaii strongly supports the need for a comprehensive review of Chapter 343 that includes as part of environmental impacts, economic impacts as well. We strongly recommend that the bill be amended to include a statement on the legislative intent is that the revised environmental review process will continue to be a "public disclosure" process that identifies impacts and a range of mitigation measures for proposed actions. It should not become another layer of government ministerial or discretionary permitting.

Thank you for this opportunity to express our views.

Karen I. Nakamura

Emailed to: testimony@capitol.hawaii.gov
Feb. 10, 2008

Denise Antolini 59-463 Alapi`o Road Pūpūkea, O`ahu 96712
(808) 638-5594

House Committee on Legislative Management

Hearing Feb. 12, 2008
2:00 p.m. Conference Room 423

HB2510 HD1 – EIS Study

Dear Chair Magaoay, Vice Chair Tokioka, and Members:

I write in **SUPPORT of HB2510 HD1**, which would enable the University of Hawaii to conduct a comprehensive study of Hawaii's EIS system.

As the committee knows, a study of Chapter 343 was authorized by the Legislature two sessions ago, but was terminated due to an unfortunate contract problem between the UH Environmental Center and the Department of Health.

The last such review was conducted the Environmental Center in 1991, over 17 years ago. Given almost two decades of judicial, administrative, and practical developments in EIS law, including the recent Hawaii Superferry decision, the need for modernizing Hawaii's 1970s-style EIS law study – to meet global best-practices but also to better reach Hawaii's sustainability goals -- is even greater now than before.

The expertise of UH Manoa's Department of Urban and Regional Planning, as well as the Law School's Environmental Law Program, would be added to the Environmental Center to ensure adequate capacity and a comprehensive, balanced approach. Appropriate coordination with key governmental stakeholders – such as OEQC and the Environmental Council – as well as community organizations and business groups, would be an integral and positive part of the study process. The proposed budget for the study will also allow the UH team to work with communities on the neighbor islands, which is important to a successful result.

As the Director of the Environmental Law Program, I would be honored to be a part of the UH Manoa team to conduct this study. We are eager to re-start this important project in collaboration with the multitude of communities in Hawaii that interact with the EIS system.

I hope that your Committees approve the bill as amended by EEP.

Thank you.

Denise Antolini