



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Presented Before the Senate Committee on Energy and Environment and Senate Committee on Education

March 14, 2008 at 2:00 pm

by

Virginia S. Hinshaw, Chancellor

and

Richard Dubanoski, Dean

College of Social Sciences

University of Hawai'i at Mānoa

HB 2510, HD2 – RELATING TO THE ENVIRONMENT

Thank you for the opportunity to testify today. Unfortunately, the University of Hawai'i at Mānoa can only support the intent of the bill at this time because of our pressing priorities, such as our tremendous need for repairs and maintenance and health and safety issues, which are critical to our ability to perform our core mission for the State of Hawai'i. We are grateful to the Legislature's attention to these needs. We recognize that you have many priorities and issues to weigh for the state, so the following substantive information on this program is provided to assist you in your decision-making process.

Having an appropriate environmental review system is clearly a critically important effort for the entire State of Hawai'i. Act 294, Session Laws of Hawai'i 2006 appropriated funds to the University of Hawai'i Environmental Center to perform a comprehensive review of the State's current environmental impact statement process under chapter 343, Hawai'i Revised Statutes. The commenced study had to be terminated due to a premature lapse of appropriated funds.

The impetus for this bill is to conduct a review of the environmental process, look at best practices in other places, and modernize the review process in light of changes that have occurred since Chapter 343 was adopted.

Many faculty at the University of Hawai'i at Mānoa have been deeply involved in the environmental impact assessment system for many years as reviewers or participants in the process. It complements the University's research and activities on environmental management, sustainable development, climate change and hazard mitigation, and other topics involving the balancing of the environment and economy.

Thank you for the opportunity to testify, we appreciate all interest in the University, and want to emphasize that we will be able to perform better in all arenas and best serve the state with support of the current campus priorities approved by the Board of Regents.

Ken H. Takayama
Acting Director

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LEGISLATIVE REFERENCE BUREAU
State of Hawaii
State Capitol
Honolulu, Hawaii 96813

Written Testimony Only

HB2510, HD2
RELATING TO THE ENVIRONMENT

Testimony by the Legislative Reference Bureau
Ken H. Takayama, Acting Director
Charlotte A. Carter-Yamauchi, Assistant Director

Presented to the Senate Committees on Energy and Environment and Education

Friday, March 14, 2008, 2:00 p.m.
Conference Room 225

Chairs Menor and Sakamoto and Members of the Committees:

Thank you for this opportunity to testify on H.B. No. 2510, H.D. 2. 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, Act 1, Session Laws of Hawaii 2008.
- We understand that this measure establishes the parameters of the study to be performed by the University of Hawaii.
- We note that the bill's effective date is July 1, 2020.

Thank you very much for this opportunity to testify.

Emailed to: testimony@capitol.hawaii.gov
Mar. 13, 2008

Denise Antolini 59-463 Alapi`o Road Pūpūkea, O`ahu 96712
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Senate Committees on Energy and Environment, and
Education

Joint Hearing Mar. 14, 2008
2:00 p.m. Conference Room 225

HB2510 HD2 – EIS Study

Dear Chairs Menor and Sakamoto, Vice-Chairs Hooser and Tokuda, and Members:

I write in **SUPPORT of HB2510 HD2**, which would further support the Legislative Reference Bureau's ability to contract with the University of Hawaii to conduct a comprehensive study of Hawaii's EIS system.

Recognizing the importance of the study, the Legislature has wisely already appropriated sufficient funds for the study to LRB through HB2688 HD1 (Act 001, signed by the Governor Feb. 13, 2008, GM444). Nonetheless, **passage of HB2510 HD2 is still important to convey the intent of the Legislature regarding the importance, scope, and stakeholder process for the study.**

It is anticipated that LRB would work with UH Manoa's Department of Urban and Regional Planning, as well as the Law School's Environmental Law Program, and the Environmental Center to complete this large two-year study.

As the Director of the Environmental Law Program, I would be honored to be a part of the UH Manoa team responding to the Legislature's request for a review of our EIS law. 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 appreciate your committee's continuing support for the bill and the study.

Thank you.

Denise Antolini

*John T Harrison, PhD
3232 Kaohinani Drive
Honolulu, Hawai'i 96817*

March 13, 2008

Emailed to: testimony@capitol.hawaii.gov
Mar. 13, 2008

**Senate Committees on Energy and Environment, and
Education**

Joint Hearing Mar. 14, 2008
2:00 p.m. Conference Room 225

HB2510 HD2 – EIS Study

Dear Chairs Menor and Sakamoto, Vice-Chairs Hooser and Tokuda, and Members:

My prior testimonies on earlier versions of HB 2510 are on record, and their substantive elements remain applicable to the draft before your respective committees.

This measure has received almost unanimous support from a wide cross-section of the community, including government agencies, professional organizations, community groups, and individuals. All agree with the findings and intent of the legislature as expressed in the measure, and there also is virtually unanimous agreement that the central necessity of Hawai'i's environmental quality management system remains intact despite concerns regarding recent events.

Having been a participant and component of this environmental quality system for the past 30 years, I hold a particular interest in ensuring that the spirit in which the laws implementing environmental quality management in Hawai'i were enacted and the underlying principles of public disclosure, decision making transparency, and judicious and far-reaching planning are both sustained and advanced through the concerted efforts of the academic community and the extended body of stakeholders.

I look forward to the challenge and opportunity to continue contributing to a future for Hawai'i that honors and validates the efforts of our predecessors.

Sincerely,


John T Harrison, PhD



**Testimony to the Senate Committees on Energy and Environment
and Education**

**Friday, March 14, 2008 at 2:00 p.m.
Conference Room 225, State Capitol**

RE: HOUSE BILL NO. 2510 HD2 RELATING TO THE ENVIRONMENT

Chairs Menor and Sakamoto, Vice Chairs Hooser and Tokuda, and Members of the Committees:

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 HD2, 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 2, 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 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, which 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.

**COALITION OF HAWAII ENGINEERING AND ARCHITECTURAL
PROFESSIONALS**

Email to: Testimony@capitol.hawaii.gov

Hearing Date: Wednesday, March 14, 2008 2:00pm, CR 225

Honorable Senators Ron Menor, Chair and Members of the Senate Committee
on Energy and Environment

Honorable Senators Norman Sakamoto, Chair and Members of the Senate
Committee on Education

Subject: HB 2510, HD-2 - Relating to the Environment

Coalition of Hawaii Engineering & Architectural Professionals represents several professional Engineering and Architectural organizations including American Council of Engineering Companies Hawaii; American Institute of Architects; Hawaii Chapter of the American Society of Civil Engineers; American Public Works Association Hawaii Chapter; Structural Engineering Association of Hawaii; and the Hawaii Society of Professional Engineers.

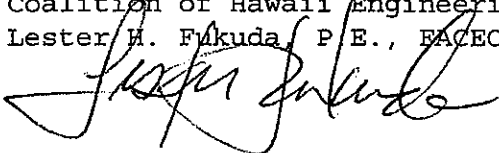
Our coalition is in support (with comments) of HB 2510, HD-2 Relating to the Environment. This bill proposes to assess the current Chapter 343 environmental laws that affect our Hawaiian environment. Recent court decisions have expanded the requirements for environmental assessments (EA's) well beyond the reasonable intent of the Law so we are in favor of a comprehensive review of the overall environmental laws and rules. The bill as currently drafted proposed to utilize the University of Hawaii, however, we would like to see other stakeholders involved in the review process that are involved in Hawaii's environment. We recommend that design professionals (ACECH environmental engineers & AIA) be added to the study group.

The entire construction industry is currently affected by the Supreme Court decision with utility connections or utility crossings, single driveway connections to existing state or county highways currently on hold for the new requirement to conduct an environmental assessment. The current position taken by SDOT is critically holding up public and private projects and forcing un-necessary expenditures for EA's and possibly jeopardizing the viability of the project or funding sources.

We recommend that you Support (with comments) to HB 2510, HD-2 - Relating to the Environment. Mahalo for this opportunity to express our concerns.

Sincerely,

Coalition of Hawaii Engineering & Architectural Professionals
Lester H. Fukuda, P.E., FACEC





Legislative Testimony

HB 2510, HD 2, RELATING TO THE ENVIRONMENT

Senate Committees on Education; Agriculture and Hawaiian
Affairs;

and Energy and Environment

March 14, 2008

2:00 p.m.

Room: 225

The Office of Hawaiian Affairs (OHA) **SUPPORTS** H.B. 2510, H.D. 2, 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 H.B. 2510, H.D. 2, taking the above concerns into account. Thank you for the opportunity to testify.



Conservation Council for Hawai'i

Testimony Submitted to the Senate Committee on Energy & Environmental and
Senate Committee on Education
Hearing: Friday, March 14, 2008
2 pm
Conference Room 225

Support for HB 2510 Relating to the Environment

Aloha. The Conservation Council for Hawai'i supports HB 2510 HD 2, which requests the Legislative Reference Bureau to contract the University of Hawai'i for a study to modernize Hawai'i's EIS process.

We do not support amending the EIS law, HRS Chapter 343, on a case-by-case basis to exempt projects from the EIS process. We suspect businesses and agencies are attempting to do this after the Superferry fiasco.

Please support this bill for a comprehensive review of HRS Chapter 343. Mahalo nui loa for the opportunity to testify.

Sincerely,


Marjorie Ziegler



Working Today for the Nature of Tomorrow!

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Hawai'i Affiliate of the National Wildlife Federation

President: Julie Leialoha • Vice-President: Nelson Ho • Secretary/Treasurer: Kim Ramos • Directors: Fred Kraus, Ph.D. • Douglas Lamerson,
George Robertson • Claire Shimabukuro • Helene Takamoto • Mashuri Waite • Executive Director: Marjorie Ziegler



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
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SENATE COMMITTEE ON ENERGY AND ENVIRONMENT SENATE COMMITTEE ON EDUCATION

March 14th, 2008, 2:00 P.M.

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF HB 2510 HD2

Chairs Menor and Sakamoto and members of the committees:

The Sierra Club, Hawai'i Chapter, with 5500 dues paying members statewide, supports HB 2510 HD2, providing funds for study to modernize Hawaii's environmental review law. While we believe that Hawaii's environmental review law has served our state well for the past three decades, we support the idea of an objective, thorough analysis of the law and recommendations of how it can be improved to increase the sustainability of the projects it is used to assess.

While a number of measures currently pending before the legislature call for various amendments to Hawaii's three-decade old environmental review law, we believe it is unwise to make any changes to the law until a thorough and objective analysis of the law is complete. This measure would provide needed funding and direction for such a study to be completed.

The eloquent mandate of Chapter 343 is simple: it requires agencies and developers to tell the truth. The intent of our environmental review law is quite clear—to ask tough questions and disclose impacts of actions using state land or money. Please remember: the environmental review law is not about permitting; it is about disclosure. The law requires that environmental, cultural, and socio-economic impacts are fully disclosed so that decision makers can make informed decisions about permitted activities.

Hawaii's Environmental Protection Act was passed over three decades ago by legislators with the foresight to recognize the need for proactive planning to protect communities and increase sustainability. It has served Hawaii's environment and communities well – when it is followed. When a company chooses to ignore the environmental review law, they must go back and comply with its requirements before their proposed project can begin.

The intent behind HRS Chapter 343, Hawaii's Environmental Impact Statement statute ("HEPA"), is clear and broad:

§343-1 Findings and purpose. The legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation

of certain actions. The legislature further finds that the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole. It is the purpose of this chapter to establish a system of environmental review which will ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations. (emphasis added)

The lawmakers who enacted HEPA (which was a parallel to the National Environmental Policy Act) had the foresight to provide a mechanism to disclose environmental, economic, and social impacts of government actions. The purpose of the environmental review law was to ensure adequate disclosure of impacts from activities using state funds or land. The law provides for comments from the public and serves as a tool for decision makers to use in selecting the optimal choice for public resources. Public oversight of public resources is essential in a democracy. It provides for checks and balances between government and the public at large. HEPA ensures some form of accountability of our agencies—if they plan to take action that may diminish the quality of life or adversely impact the environment that everyone shares, HEPA discloses those impacts before they occur. Without such a disclosure, the state would blindly take actions without knowing what the future costs or benefits would be. The essence of our environmental review process is used to understand and fix problems *before they occur*.

Hawai'i has had its environmental review law for nearly 30 years. It is a process that has been tested time and time again—and it works. Because of the law, Hawai'i is better planned, cleaner, and more beautiful. We support funding a comprehensive, objective study of Hawaii's environmental review law through HB 2510 HD2 as a means to further improve planning for a sustainable future.

Thank you for the opportunity to testify.