

LATE TESTIMONY

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Committee on Water, Land, & Ocean Resources
Date: Monday, February 2, 2009
Time: 9:00 a.m.
Place: Conference Room 325
HB570
1 copies (including an original)

Committee Chairman Mr. Ito and members:

I support HB570 with an amendment. I would like for you to consider omitting some of the language in Section 4 which are bracketed and underlined below.

Section 4.

Section 205A-22, Hawaii Revised Statutes, is amended by amending the definitions of... "Development" means any of the uses, activities, or operations on land [or in or under water] within a special management area that are included below:

[(1) Placement or erection of any solid material or any gaseous, liquid, solid, or thermal waste;]

The aforementioned alludes to legalize dumping of solid material or any gaseous, liquid, solid or thermal waste in or under water. Isn't this a violation of state and federal Clear Water Act rules and regulations within a special management area? The laws, which protect our Class AA waters, would be compromised if this permitted. Please consider the changes that I have mentioned.

Mahalo,

Gwen F. Haban

LATE TESTIMONY



Via Capitol Website

February 2, 2009

House Committee on Water, Land and Ocean Resources
Hearing Date: Monday, February 02, 2009, 9:00 a.m. in CR 325

Testimony in Opposition to HB 570: Relating to Coastal Zone Management

Honorable Representative Chair Ken Ito, Vice Chair Sharon Har
and Members of the House Committee on Water, Land & Ocean Resources:

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable and rational land use planning, legislation and regulations affecting common problems in Hawaii.

LURF appreciates the opportunity to provide our testimony **in opposition to HB 570 as**. LURF is opposed to this bill, based on the following:

- The bill **lacks facts or justification** for changing the definition of setbacks along the shoreline from "not less than twenty feet and not more than forty feet" to "not less than forty feet;"
- Changing the setback line by this legislation could result in the **unconstitutional taking** of property without compensation;
- Establishing a fixed setback line by statute does not allow for **unique situations** where the setback may not be warranted (such as rocky or hardened and established shorelines);
- Instead of prescribing a minimum setback area (as required in this bill), the Legislature should **honor and respect the setbacks established by the Counties** based on their historic erosion rates in a particular area or the distinctive shoreline and topography of each County.

HB 570. This bill requires the affected County agencies to account for sea-level rise and minimize risks from coastal hazards such as erosion, storm inundation, hurricanes, and tsunamis. Preserves public access and public shoreline access. It also extends shoreline setback to not less than forty feet from shoreline and requires counties to account for annual erosion rates. In particular, it provides as follows:

- Adds a requirement to §46-6.5, Hawaii Revised Statutes ("HRS"), requiring that the as a condition precedent to final subdivision approval that Counties shall ensure reasonable street parking near public access areas in the special management areas under Chapter 205A;

- Adds various requirements to §205A-2 relating to the Coastal Zone management Program and its objectives and policies;
- Amends the definitions in §205A-22, HRS;
- Changes the criteria in §205A-26, for approval of developments by:
 - Changing no “substantial” adverse environmental or ecological effect, to no “significant” adverse environmental or ecological effect ;
 - Adding a requirement relating to adequate planning to minimize the risk of coastal hazards;
 - Adding a requirement that the development will not impede public access to the shoreline or beach area;
- Alters §205A-43 HRS by changing the definition of setbacks along the shoreline from “not less than twenty feet and not more than forty feet” to “not less than forty feet;”
- Amends §205A-43.5 and increases the threshold value to waive a public hearing for a variance application for structures at risk of immediate damage from shoreline erosion, from \$20,000 to \$50,000;
- Amends §205A-45, HRS, by giving each county the authority to establish shoreline setback lines at a distance not less than the average annual erosion rate based on a fifty-year projection, in addition to the minimum distance established in §205A-43, HRS; and
- Makes other various changes to the Program to mitigate coastal hazards and preserve public access to shorelines.

Conclusion. We cannot support the bill as proposed. The bill **lacks any facts or justification** for changing the definition of setbacks along the shoreline; it could result in the **unconstitutional taking** of property without compensation; and it **does not allow for unique situations** where the setback may not be warranted (rocky or hardened and established shorelines). We understand that some of the Counties are in the process or have adopted setbacks based on historic erosion rates in a particular area or county. Instead of prescribing a minimum setback area (as required in this bill), the **Legislature should allow the Counties to use their own County data as a baseline**, which would provide some certainty and consistency in determining setbacks within each County, based on the unique shoreline and topography of each County.

Thank you for the opportunity to express our views on this matter.

LATE TESTIMONY

Testimony from:
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2/2/09

Testimony HB570

I support HB570. This bill has several key features which will enhance public safety and management of our precious coastal resources. These include: requiring agencies to account for sea-level rise, minimizing risk from coastal hazards, enhancing public access, extending the shoreline setback to no less than 40 ft, and setting rate-based setbacks.

I support administrative amendments to the bill with one exception. Allowing for "accretion rates" to guide development reveals a stunning lack of judgment; inviting coastal development to expand seaward invites increased loss in the next tsunami or hurricane, increased seawall construction when the erosion turns to accretion, and decreased public access. Allowing accretion rates to guide development also goes against the purpose of the bill to minimize coastal hazards.

Please remove the administrative amendment to include "accretion rates."

I include here two attachments:

1. A recent news release wherein leading experts predict over 3 ft of sea level rise by the end of the century.
2. Executive Order S-13-08, wherein Governor Schwarzenegger orders study of sea level rise impacts by all state agencies.

Top scientists warn of catastrophic rise in sea levels

Posted 6 hours 14 minutes ago

Several of Australia's most pre-eminent climate change scientists have given evidence to a federal parliamentary committee in Hobart.

The committee is investigating the impacts of climate change on Australia's coastal communities.

Scientists from the CSIRO and the Antarctic Climate and Ecosystems Cooperative Research Centre gave evidence on Wednesday afternoon.

They have reiterated the need for drastic action to stop a catastrophic rise in sea levels.

Dr John Church told the committee a sea level rise of 80 to 90 centimetres by 2100 seems likely.

He says strong action now will not stop significant coastal disruption.

"We cannot prevent all sea level rise. We will have to adapt to some sea level rise," he said.

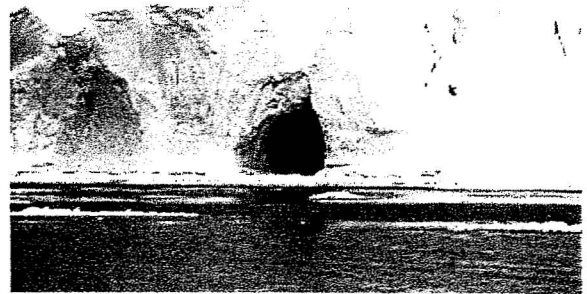
The scientists say that uncertainty about melting icecaps means it is hard to predict the impact of rising sea levels on the Australian coastline.

Dr Tony Press from the Antarctic CRC says more research is needed into the impact of melting polar ice.

"It's not going to melt tomorrow but we need to know what the potential is for the rate of increase of sea level rise due to warming in West Antarctica and the Arctic might be," he said.

The committee will table its report in Parliament later this year.

Tags: environment, climate-change, government-and-politics, federal-government, tas, hobart-7000



Scientists say that uncertainty about melting icecaps makes the impact of rising sea levels on the Australian coastline hard to predict.
(AAP Image: Simon Mossman)

• [Map: Hobart 7000](#)



EXECUTIVE ORDER S-13-08

11/14/2008

WHEREAS climate change in California during the next century is expected to shift precipitation patterns, accelerate sea level rise and increase temperatures, thereby posing a serious threat to California's economy, to the health and welfare of its population and to its natural resources; and

WHEREAS California is a leader in mitigating and reducing its greenhouse gas emissions with the 2006 Global Warming Solutions Act (Assembly Bill 32), the Low Carbon Fuel Standard (Executive Order S-01-07), the 2008 Senate Bill 375 and the Renewable Portfolio Standard; and

WHEREAS these efforts, coupled with others around the world, will slow, but not stop all long-term climate impacts to California; and

WHEREAS California must begin now to adapt and build our resiliency to coming climate changes through a thoughtful and sensible approach with local, regional, state and federal government using the best available science; and

WHEREAS there is a need for statewide consistency in planning for sea level rise; and

WHEREAS California's water supply and coastal resources, including valuable natural habitat areas, are particularly vulnerable to sea level rise over the next century and could suffer devastating consequences if adaptive measures are not taken; and

WHEREAS the country's longest continuously operating gauge of sea level, at Fort Point in San Francisco Bay, recorded a seven-inch rise in sea level over the 20th century thereby demonstrating the vulnerability of infrastructure and resources within the Bay; and

WHEREAS global sea level rise for the next century is projected to rise faster than historical levels with the Intergovernmental Panel on Climate Change predicting that global sea levels will rise by between seven to 23 inches this century and some experts predicting even higher rises; and

WHEREAS while climate models predicting global sea level rise are generally understood and improving, less information is available for sea level rise projections specific to California that accounts for California's topography, coastal erosion rates, varying land subsidence levels and tidal variations; and

WHEREAS billions of dollars in state funding for infrastructure and resource management projects are currently being encumbered in areas that are potentially vulnerable to future sea level rise; and

WHEREAS safety, maintenance and operational efforts on existing infrastructure projects are critical to public safety and the economy of the state; and

WHEREAS the longer that California delays planning and adapting to sea level rise the more expensive and difficult adaptation will be; and

WHEREAS the California Resources Agency is a member of the California Climate Action Team and is leading efforts to develop and implement policy solutions related to climate change adaptation regarding current and projected effects of climate change; and

WHEREAS the Department of Water Resources (DWR) is responsible for managing the state's water resources to benefit the people of California, and to protect, restore and enhance the natural and human environments; and

WHEREAS the California Energy Commission's (CEC) Public Interest Energy Research Program has funded research on climate change since 2001 including funding the development of preliminary sea level rise projections for the San Francisco Bay area by the Scripps Institution of Oceanography/University of California at San Diego.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power vested in me by the Constitution and statutes of the State of California, do hereby order effective immediately:

1. The California Resources Agency, in cooperation with DWR, CEC, California's coastal management agencies, and the OPC, shall request that the National Academy of Sciences (NAS) convene an independent panel to complete the first California Sea Level Rise Assessment Report and initiate, within 60 days after the signing of this Order, an independent sea level rise science and policy committee made up of state, national and international experts.
2. By March 31, 2009, the OPC, DWR and the CEC, in coordination with other state agencies, shall hold a public workshop to gather policy-relevant information specific to California for use in preparing the Sea Level Rise Assessment Report and to raise state awareness of sea level rise impacts.
3. The California Resources Agency shall request that the final Sea Level Rise Assessment Report be completed as soon as possible but no later than December 1, 2010. The final Sea Level Rise Assessment Report will advise how California should plan for future sea level rise. The report should include: (1) relative sea level rise projections specific to California, taking into account issues such as coastal erosion rates, tidal impacts, El Niño and La Niña events, storm surge and land subsidence rates; (2) the range of uncertainty in selected sea level rise projections; (3) a synthesis of existing information on projected sea level rise impacts to state infrastructure (such as roads, public facilities and beaches), natural areas, and coastal and marine ecosystems; and (4) a discussion of future research needs regarding sea level rise for California.
4. The OPC shall work with DWR, the CEC, California's coastal management agencies and the State Water Resources Control Board to conduct a review of the NAS assessment every two years or as necessary.
5. I direct that, prior to release of the final Sea Level Rise Assessment Report from the NAS, all state agencies within my administration that are planning construction projects in areas vulnerable to future sea level rise shall, for the purposes of planning, consider a range of sea level rise scenarios for the years 2050 and 2100 in order to assess project vulnerability and, to the extent feasible, reduce expected risks and increase resiliency to sea level rise. However, all projects that have filed a Notice of Preparation, and/or are programmed for construction funding the next five years, or are routine maintenance projects as of the date of this Order may, but are not required to, account for these planning guidelines. Sea level rise estimates should also be used in conjunction with appropriate local information regarding local uplift and subsidence, coastal erosion rates, predicted higher high water levels, storm surge and storm wave data.
6. The Business, Transportation, and Housing Agency shall work with the California Resources Agency and the Governor's Office of Planning and Research (OPR) to prepare a report within 90 days of release of this Order to assess vulnerability of transportation systems to sea level rise that will include provisions for investment critical to safety, maintenance and operational improvements of the system and economy of the state.
7. By June 30, 2009, the California Resources Agency, through the Climate Action Team, shall coordinate with local, regional, state and federal public and private entities to develop a state Climate Adaptation Strategy. The strategy will summarize the best known science on climate change impacts to California (led by CEC's PIER program), assess California's vulnerability to the identified impacts and then outline solutions that can be implemented within and across state agencies to promote resiliency. A water adaptation strategy will be coordinated by DWR with input from the State Water Resources Control Board, an ocean and coastal resources adaptation strategy will be coordinated by the OPC, an infrastructure adaptation strategy will be coordinated by the California Department of Transportation, a biodiversity adaptation strategy will be jointly coordinated by the California Department of Fish and Game and California State Parks, a working landscapes adaptation strategy will be jointly coordinated by the California Department of Forestry and Fire Protection and the California Department of Food and Agriculture, and a public health adaptation strategy will be jointly coordinated by the California Department of Public Health and the California Air Resources Board, all as part of the larger strategy. This strategy will be facilitated through the Climate Action Team and will be coordinated with California's climate change mitigation efforts.
8. By May 30, 2009, OPR, in cooperation with the California Resources Agency, shall provide state land-use planning guidance related to sea level rise and other climate change impacts.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 14th day of November 2008.

ARNOLD SCHWARZENEGGER
Governor of California

ATTEST:
Debra Bowen
Secretary of State