

HB 389

HD3, SD1

WRITTEN ONLY

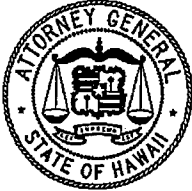
TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 389, H.D. 3, S.D. 1

April 1, 2011

RELATING TO LAND USE

House Bill No. 389, H.D. 3, S.D. 1, establishes the Heeia Community Development District and the Heeia Community Development Revolving Fund into which all revenues, income, and receipts of the authority for the district; moneys allocated from government agencies, private individuals, or organizations; and moneys appropriated to the fund by the Legislature shall be deposited. The department supports the concept of facilitating exchange of land, entitlements, or other development rights to the extent that such actions can encourage desired growth and enhance future State or county revenue.

The department recognizes the benefit of user fees to offset operational expenses and costs. However, as a matter of general policy, the Department of Budget and Finance expects the creation of any revolving fund would meet the requirements of Section 37-52.4 of the Hawaii Revised Statutes. Special or revolving funds should: 1) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program; 2) provide an appropriate means of financing for the program or activity; and 3) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 389, H.D. 3, S.D. 1, it is difficult to determine whether the fund will be self-sustaining.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

H.B. NO. 389, H.D. 3, S.D. 1, RELATING TO LAND USE.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Friday, April 1, 2011 TIME: 9:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): WRITTEN COMMENTS ONLY. For more information, call
Lori N. Tanigawa, Deputy Attorney General at 587-2978

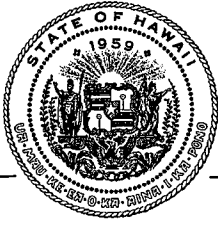
Chair David Y. Ige and Members of the Committee:

The Department of the Attorney General provides the following testimony:

Section 2 of the bill on page 5, lines 9 to 11, provides:

"The three members shall be residents of the district or the Koolaupoko district which consists of section 1 through 9 of zone 4 of the first tax map key division."

Given that the reference is to multiple sections 1 through 9, which comprise the Koolaupoko district, we recommend that the word "section" be made plural, to read "sections" rather than "section."



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
DIRECTOR
JESSE K. SOUKI
INTERIM DIRECTOR
OFFICE OF PLANNING

OFFICE OF PLANNING

235 South Beretania Street, 6th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804

Telephone: (808) 587-2846
Fax: (808) 587-2824

Statement of
JESSE K. SOUKI
Interim Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS
Friday, April 1, 2011
9:00 AM
State Capitol, Conference Room 211

in consideration of
HB 389, HD3, SD1
RELATING TO LAND USE

Chair Ige, Vice Chair Kidani, and Members of the Senate Committee on Ways and Means.

SD1 establishes the Heeia community development district by adding a new part to Chapter 206E, HRS. We have no position on the establishment of a new community development district at Heeia, Koolaupoko, Oahu. We support the provisions under "policies to guide development" which specifies that special management area (SMA) and shoreline setbacks for the Heeia community development district continue to be administered by the City and County of Honolulu.

As an additional amendment, to maintain consistency in the statute, we recommend that **§206E-8.5 Developments within special management areas and shoreline setback** be amended by amending its subsection (a) to read as follows:

"(a) Notwithstanding chapter 205A, all requests for developments within a special management area and shoreline setback variances for developments on any lands within a community development district, for which a community development plan has been developed and approved in accordance with section 206E-5, shall be submitted to and reviewed by the lead agency as defined in chapter 205A. In community development districts ~~[for which a community development plan has not been developed and approved in accordance with section 206E-5,]~~ that were established after 2010, parts II and III of chapter 205A shall continue to be administered by the applicable county authority. ~~[until a community development plan for the district takes effect.]"~~

When Chapter 205A, HRS, was first formulated, the decision was made to have the regulatory function at the county level. As the lead agency, the Coastal Zone Management (CZM) Program of the Office of Planning's (OP) duties and responsibilities are primarily in the areas of policy and program development. Its duties and responsibilities include developing the ocean and resources management plan, providing support and assistance in the administration of the CZM Program, reviewing federal consistency with the CZM Program, and administering CZM grants. In 1990, the law was amended to provide that OP administer SMA and shoreline setbacks for community development districts. OP's ability to administer SMAs and shoreline setbacks in new community development districts is constrained by staff resources. In addition, an expansion of OP's regulatory duties would not be consistent with its primary functions.

Thank you for the opportunity to testify.



Testimony of The Nature Conservancy of Hawai'i
Supporting H.B. 389 HD3 SD1 Relating to Land Use
Senate Committee on Ways and Means
Friday, March 1, 2011, 9:00AM, Room 211

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 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 supports H.B. 389 HD3 SD1 and its purpose to create the He'eia Community Development District. We believe the establishment of the development district will benefit the natural resource restoration and preservation efforts undertaken by the community for the He'eia ahupua'a and Kāne'ohē Bay.

The Conservancy's particular interest at He'eia had initially been to help protect the unique and important coral reefs and other marine resources of Kāne'ohē Bay. The Conservancy was already partnering with the State and the University of Hawai'i to remove invasive algae from the bay, but we soon learned that we should also be working with the community to reduce sedimentation flowing into the bay from the He'eia ahupua'a. In addition to the algae control work on the reef, we now have the good fortune to participate in and support an ambitious multi-partner project to restore a traditional Hawaiian wetland system. Begun by the Ko'olaupoko Hawaiian Civic Club, the restoration effort goes by the name *Mahuahua 'Ai o Hoi* and is led by the community non-profit Kako'o 'Ōiwi.

Kāne'ohē Bay is the largest bay in the Hawaiian Islands, and the only one in the main islands with all three types of reef habitat: a barrier reef, patch reefs and a broad fringing reef system along its shoreline. The bay also contains large sand flats, a number of extensive seagrass beds and some of the only remaining functioning estuarine (the convergence of river and ocean) habitats on O'ahu. As a result, the bay is home to some of the highest numbers and greatest diversity of fish, marine invertebrates and native marine algae anywhere on the island. It is frequented by green sea turtles, and used by sharks for birthing grounds, manta rays for foraging habitat and spinner dolphins for resting. The bay is also home to the only functioning rock-wall fishponds remaining on O'ahu.

The He'eia ahupua'a was once a thriving wetland, but today it is overrun with non-native grasses, trees and weeds. A Department of Defense dumpsite, surrounding development and two major highways that extend through the watershed contribute to urban sources of land-based pollution and sediment, which flow to the sea during heavy rains and choke the bay's reefs.

For the He'eia community and for the Conservancy, the goal is not only to reduce the amount and rate of sedimentation flowing into the bay and smothering coral reef habitat, but also provide alternative sources of food through taro cultivation and other crops, and a suite of agricultural and aquacultural jobs for local families. Together we hope that this project will not only protect and preserve the natural resources of the area, but also very importantly, transfer knowledge of traditional Hawaiian land management practices and customs to a new generation and strengthen the connection between people, their land and the sea.

BOARD OF TRUSTEES

S. Haunani Apoliona Christopher J. Benjamin Anne S. Carter Richard A. Cooke III Peter H. Ehrman Kenton T. Eldridge
Thomas M. Gottlieb Donald G. Horner J. Douglas Ing Mark L. Johnson Dr. Kenneth Y. Kaneshiro Bert A. Kobayashi, Jr.
Faye Watanabe Kurren Eiichiro Kuwana Duncan MacNaughton Bonnie P. McCloskey Bill D. Mills Wayne K. Minami Michael
T. Pfeffer James C. Polk H. Monty Richards Jean E. Rolles Scott C. Rolles Crystal K. Rose Nathan E. Smith Eric K. Yeaman