



HB402
RELATING TO ENVIRONMENTAL IMPACT STATEMENTS
House Committee on Hawaiian Affairs
House Committee on Culture and the Arts

February 16, 2011

8:30am

Room: 329

The Office of Hawaiian Affairs (OHA) strongly **SUPPORTS** HB402, which is a bill in OHA's 2011 Legislative Package. HB 402 would require all Environmental assessments (EAs) and Environmental Impact Statements (EISs) to include a Cultural Impact Assessment (CIA). The bill would also require OHA's approval of CIAs.

HB402 provides an opportunity to fulfill the intent of Act 50, Session Laws of Hawaii 2000, which required EISs to analyze the impacts a proposed project would have on cultural practices. Unfortunately, Act 50 did not provide minimal requirements for what must be included in a cultural assessment. In addition, administrative rules for CIAs also do not exist. Instead, the public can only evaluate the adequacy of a CIA against the Environmental Council's unenforceable administrative guidelines. As a result, in the ten years since the passage of Act 50, we still see vast inconsistencies in the manner in which CIAs disclose a project's cultural impacts.

HB402 addresses this by specifying the minimal requirements for a cultural impact assessment. The bill would also assist the state in fulfilling its obligations relating to the Hawai'i Supreme Court's ruling in the *Ka Pa'akai o Ka 'Āina v. Land Use Commission* case. In its ruling, the court held that state agencies must, at a minimum, make findings and conclusions regarding 1) the identity and scope of valued cultural, historical, or natural resources; 2) the extent that the rights of Native Hawaiian traditional and customary practitioners and the resources they rely upon will be affected or impaired by the proposed action; and 3) the feasible action that the agency will take to reasonably protect Native Hawaiian rights.

While there are concerns that HB402 would create additional costs for applicants, we believe that conducting a thorough cultural impact assessment during the EIS process will ultimately help prevent costly delays and expensive litigation later.

Finally, providing OHA with approval authority over CIAs will help to ensure that CIAs serve as an effective decision-making tool for policy makers, Native Hawaiians and the general public.

Therefore, OHA strongly urges the Committees to PASS HB402. Mahalo for the opportunity to testify on this important matter.

clee2 - Matt

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 16, 2011 6:11 AM
To: HAWtestimony
Cc: rkaye@mdi.net
Subject: Testimony for HB402 on 2/16/2011 8:30:00 AM

LATE TESTIMONY

Testimony for HAW/CUA 2/16/2011 8:30:00 AM HB402

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: Robin Kaye
Organization: Individual
Address:
Phone:
E-mail: rkaye@mdi.net
Submitted on: 2/16/2011

Comments:

This is an important bill, and I support it wholeheartedly. I agree with OHA's testimony -- this legislation will strengthen the EIS process. And I agree with Chair Morita's testimony that this legislation will help fulfill -- and therefore improve -- the original intent of the EIS legislation.

clee2 - Matt

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 16, 2011 7:02 AM
To: HAWtestimony
Cc: marti@kahea.org
Subject: Testimony for HB402 on 2/16/2011 8:30:00 AM

LATE TESTIMONY

Testimony for HAW/CUA 2/16/2011 8:30:00 AM HB402

Conference room: 329
Testifier position: support
Testifier will be present: No
Submitted by: Marti Townsend
Organization: KAHEA: The Hawaiian-Environmental Alliance
Address:
Phone:
E-mail: marti@kahea.org
Submitted on: 2/16/2011

Comments: