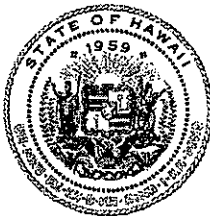
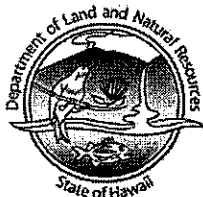


NEIL ABERCROMBIE
GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the House Committee on
FINANCE**

**Wednesday, March 2, 2011
11:00 AM
State Capitol, Conference Room 308**

**In consideration of
HOUSE BILL 1079, HOUSE DRAFT 1
RELATING TO FEES FOR HABITAT CONSERVATION PLANS**

The Department of Land and Natural Resources (Department) strongly supports House Bill 1079, House Draft 1 an Administration bill, to authorize the collection of fees to cover the technical assistance program costs associated with developing, reviewing, and monitoring habitat conservation plans; and provisions for the adoption of rules to establish such fees.

Hawaii is the Endangered Species Capital of the Nation with 380 listed threatened and endangered species and many more that are candidates or species of concern. As such, Hawaii needs the flexibility within its state law to work cooperatively with its federal counterparts, private landowners and other government agencies to deal with the complexities of the endangered species situation in Hawaii and find the proactive, workable solutions that can protect and conserve our endangered species while allowing for acceptable resource use activities and sound development.

Under both State and Federal endangered species law, the incidental take of threatened and endangered species may be allowed if the applicant obtains state and federal approval of a habitat conservation plan that identifies and implements measures to avoid, minimize, mitigate, and monitor take of affected species, and that will increase the likelihood of recovery of the endangered or threatened species that are the focus of the plan. Under Chapter 195D, Hawaii Revised Statutes, the Department is responsible for evaluating, processing, and approving habitat conservation plans and incidental take licenses (ITL) and may establish a technical assistance program for landowners for that purpose. Most applicants request extensive assistance and the number of applications for ITLs and requests for assistance related to habitat conservation plans has increased significantly in recent years involving infrastructure and energy develop projects.

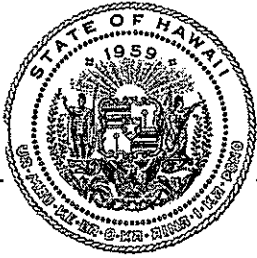
WILLIAM J. AILA, JR.
INTERIM CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

The Department is currently providing required annual reviews for four approved habitat conservation plans, and is also reviewing applications for 13 habitat conservation plans. Each habitat conservation plan requires an average of 300 staff hours per year. There is currently no budgeted position within the department to address this need for technical assistance. This bill would authorize the adoption of rules for establishing a procedure to collect fees from applicants to cover the department's costs to implement the technical assistance program. Establishing these fees would enable the Department to better service the needs of applicants, and more efficiently process habitat conservation plans.



NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
INTERIM DIRECTOR

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

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Statement of
RICHARD LIM
Interim Director
Department of Business, Economic Development, and Tourism
Before the
HOUSE COMMITTEE ON FINANCE
Wednesday, March 2, 2011
11:00 AM
State Capitol, Conference Room 308
In consideration of
HB 1079 HD 1
RELATING TO FEES FOR HABITAT CONSERVATION PLANS.

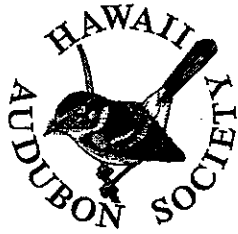
Chair Oshiro, Vice Chair Lee, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB 1079 HD 1, but defers to the Department of Land and Natural Resources with respect to implementation of this measure.

DBEDT is mandated by law to facilitate the permitting of renewable energy projects and to work with permitting agencies. DBEDT is allowed to collect fees from participating projects and to provide a portion of those fees to agencies such as DLNR to help to offset their costs.

This bill would empower DLNR to directly collect fees to cover some of their own costs, allowing for more staff and enabling a more timely review process. It is our belief that this will benefit the renewable energy sector as well as the state's overall economic development.

We encourage your support of this bill. Thank you for the opportunity to testify.



For the Protection of Hawaii's Native Wildlife
HAWAII AUDUBON SOCIETY

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February 28, 2011

TO: Committee on Finance
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

HEARING: Wednesday, March 2, 2011; 11:00 a.m., Conference Rm. 308

RE: HB 1079, HD1 – Relating to Fee for Habitat Conservation Plans

TESTIMONY IN STRONG SUPPORT

Chair Oshiro, Vice Chair Lee, and members of the Committee on Finance. George Massengale on behalf of the Hawaii Audubon Society. Thank you for the opportunity to submit this testimony in strong support of HB1079, HD1. This measure, if enacted, would authorize DLNR to collect fees to cover technical assistance program cost associated with Habitat Conservation Plans.

The Hawai'i Audubon Society's mission is the protection of Hawai'i's native birds, wildlife, habitats and our ocean resources; the restoration of ecosystems; and the conservation of natural resources through education, science and advocacy in Hawai'i and the Pacific.

We are aware that applications for incidental take licenses and requests for technical assistance related to habitat conservation plans by landowners has increased significantly in recent years. In addition, budget cuts to DLNR over the last few years, has made it difficult for DLNR field staff to comply with landowner request in a timely manner. Having said that, DLNR continues to do a remarkable job, despite its shoestring budget. Needless to say, the department's resources are now spread thin, almost to the breaking point, and they no longer are able to keep pace with assistance requests.

We see HB1079, HD1 as a very pragmatic measure that will benefit landowners by allowing DLNR staff to respond more expeditiously to their requests. It will also benefit DLNR by raising much needed funds for staff support of the Endangered Species Recovery Committee.

We would urge the committee to pass this measure; it's a win-win for all parties.

Respectfully,

George S. Massengale, JD
Legislative Analyst



H.B. 1079, HD 1 Relating to Fees for Habitat Conservation Plans
Comments to the House Committee on Finance
March 2, 2011

Aloha Representative Oshiro, Representative Lee, and members of the Committee on Finance. My name is Kekoa Kaluhiwa and I am the Director of External Affairs for First Wind.

I humbly request that you **support** H.B. 1079 which authorizes the Department of Land and Natural Resources to collect fees to cover the technical assistance program costs associated with Habitat Conservation Plans, and adopt rules for establishing such fees.

As background, First Wind is the majority owner and operator of Hawaii's largest wind energy project in the West Maui Mountains called Kaheawa Wind Power. Since 2006, Kaheawa has provided 30 MW of clean energy for Maui residents, roughly 9% of the island's energy needs. Pending PUC approval, we plan to expand Kaheawa by adding an additional 21 MW of wind energy capacity. This month, First Wind will bring online a 30 MW project in Kahuku, O'ahu. In 2012, we hope to construct a 70MW wind energy project in Kawailoa, O'ahu. And as a long term objective, we hope to develop a 200MW project to support the Big Wind initiative.

In developing these clean, renewable energy projects, First Wind is pleased to support the goals set forth by the Hawaii Clean Energy Initiative (HCEI). We also take serious consideration of the potential impacts our projects have on Hawaii's threatened and endangered species. As far as First Wind is aware, Kaheawa was the first wind energy facility in the United States to include a Habitat Conservation Plan (HCP). As mindful and respectful stewards of Hawaii's natural resources, an HCP is requisite for all our Hawai'i projects.

The timeline set forth by the HCEI is no doubt ambitious, but it is achievable. As the basis of our support for H.B. 1079, we believe that if the Department of Land and Natural Resources is able to collect fees to support the technical assistance program, the additional revenue should be dedicated to providing the necessary staffing to result in more timely review of HCP's in the future. HCP's are detailed technical documents that have important implications for Hawaii's native wildlife, and deserve thoughtful and professional review. Timely review and permitting of renewable energy projects will greatly support the goals of the HCEI.

Mahalo for this opportunity to express First Wind's **support** of H.B. 1079.



REP. MARCUS R. OSHIRO, CHAIR
REP. MARILYN B. LEE, VICE CHAIR
HOUSE COMMITTEE ON FINANCE

TESTIMONY RE: HOUSE BILL NO. 1079, H.D. 1
RELATING TO FEES FOR HABITAT CONSERVATION PLANS

March 2, 2011, 11:00 a.m.
Conference Room 308

Good morning Chair Oshiro, Vice-Chair Lee, and members of the committee:

My name is David Lane Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to offer this testimony in support of House Bill No. 1079, H.D. 1, which would help provide the Department of Land and Natural Resources (DLNR) with the funding it needs to ensure that habitat conservation plans (HCPs) approved pursuant to HRS chapter 195D adequately protect Hawai'i's critically imperiled native plants and animals, preserving these irreplaceable public trust resources for future generations.

When the Legislature amended chapter 195D over a decade ago to allow for incidental "take" (i.e., injury and death) of imperiled species, it wisely insisted that, before any take authorization could issue, an HCP would have to be developed and approved to ensure that the harm to imperiled species would be minimized and mitigated and that the overall effect of the approved activities would confer a net benefit on the affected species. Satisfying these mandates often requires considerable scientific and other technical expertise. Accordingly, the Legislature authorized DLNR to establish a technical assistance program to help private parties develop their HCPs.

Over the years, more and more landowners in Hawai'i have sought to bring their existing operations into compliance with chapter 195D, while others have sought to ensure that new undertakings would, from their inception, afford imperiled species with the required protection. These developments further the public's interest in preserving our natural heritage for future generations and, thus, are most welcome. Providing technical assistance for these new HCP initiatives has, however, imposed a heavy burden on DLNR, which already lacks adequate funds to carry out its mission.

HB 1079, H.D. 1 would promote the public interest by providing DLNR with vital resources to help landowners comply with chapter 195D's command to protect imperiled species. Moreover, by ensuring adequate staffing for DLNR's technical assistance program, it would help expedite the processing of incidental take applications.

For the foregoing reasons, we respectfully urge you to pass HB 1079, H.D. 1. Thank you again for the opportunity to offer this testimony.