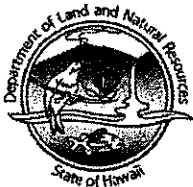


NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**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  
ENERGY & ENVIRONMENTAL PROTECTION**

**Tuesday, March 15, 2011  
9:00 AM  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 699, SENATE DRAFT 2  
RELATNG TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL**

Senate Bill 699, Senate Draft 1 proposes to establish filing fees to help fund operations of the Office of Environmental Quality Control (OEQC) and creates a special fund.

The Department of Land and Natural Resources (Department) recognizes the needs of OEQC to establish appropriate fees to cover the cost of services. However, the Department supports this move as long as the size of the fees are appropriate. We have concerns with budgetary impacts on the Department and our small landowner and non-profit partners engaging in conservation projects that do not generate monetary profits and that support public benefits. Costs in the ballpark of \$500 for an environmental assessment (EA) and \$1,000 for an environmental impact statement (EIS) seem appropriate for small projects. The way the bill is currently written, it would also have no exemption for any government sponsored projects, even small projects, because government agencies would exceed the revenue or number of employees' thresholds.

In assessing the amount of the filing fee, take into consideration that many other agencies are also passing on permit processing fees for the Administrative work that they do to develop, review and issue permits. For instance, the Department is in the process of adopting fees for Conservation District Use permits, which also require an EA or EIS, which range in costs from \$250 for small projects, up to \$2,500 for complex projects that could require weeks and months of staff time.

**WILLIAM J. AILA, JR.**  
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

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



GARY L. HOOSER  
INTERIM DIRECTOR

**STATE OF HAWAII**  
**OFFICE OF ENVIRONMENTAL QUALITY**  
**CONTROL**

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**HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**

**SB699, SD2, RELATING TO THE OFFICE OF ENVIRONMENTAL  
QUALITY CONTROL**

**Testimony of Gary Hooser**  
**Interim Director of the Office of Environmental Quality Control**

**March 15, 2011**

- 1 **Office's Position:** The Office of Environmental Quality Control strongly supports SB699, SD2,  
2 as its number one priority bill. We also suggest amendments to further clarify language in the  
3 measure.
- 4 **Fiscal Implications:** The proposed fees will establish a special fund via filing fees that will be  
5 utilized to improve OEQC's implementation and compliance with Chapter 343, and Chapter 341,  
6 Hawaii Revised Statutes.
- 7 **Purpose and Justification:** OEQC's mandate under Chapter 341, HRS, includes managing the  
8 environmental assessment and environmental impact statement process, providing education and  
9 outreach about the Chapter 343 process to stakeholders around the state, publishing as required  
10 by law, an "Annual Report on Hawaii's Environment," and being the public's voice for the  
11 environment, that includes legislative advocacy, education and a complaint repository. There is  
12 also a need to eliminate the backlog of exemption list reviews and rule amendments that now  
13 exist. The proposed fees will provide needed funding to hire adequate staff, provide staff and  
14 other support to the Environmental Council, upgrade existing systems, and modernize

1 technology to improve OEQC services and ensure quality of the State's environmental review  
2 process.

3 We would like to offer the following language as proposed amendments. On page 1,  
4 amend line 6 to read; the activities of the office of environmental quality control, hire adequate  
5 staff, support outreach, training, education, research, modernize and maintain technology  
6 systems, and develop technology training. On page 2, we propose this amendment to section (1)  
7 at the end of line 10; the director may appoint personnel exempt from chapters 76 and 89, HRS.

8 We also offer this language for the section on fees, page 3:

9 Amend line 3 by inserting this amount after the \$ sign; \$1,500;

10 Amend line 4 by inserting this amount after the \$ sign; \$1,000;

11 Amend line 5 by inserting this amount after the \$ sign; \$500;

12 Amend line 7 by inserting this amount after the \$ sign; \$4,000;

13 Amend line 8 by inserting this amount after the \$ sign; \$3,000;

14 Amend line 9 to read, (6) \$500 for any supplemental other significant addendum to a final  
15 environmental assessment;

16 Amend line 11 to read, (7) \$500 for a final environmental assessment/supplemental  
17 environmental impact statement preparation notice;

18 Also insert the following amendments:

19 (8) \$2000 for a supplemental draft environmental impact statement; and

20 (9) \$1000 for any supplemental final environmental impact statement;

21 Finally, we offer this language for the effective date: The fees will be effective 30 days after this  
22 measure becomes law and will apply to initial filings and all related subsequent filings.

23 Environmental studies that have filed drafts with the office prior to passage of this measure shall  
24 be exempt from filing fees only for 180 days from the date of this measure becoming law.

1 We appreciate the initiative provided by SB699, SD2, and look forward to its passage.

2 Thank for the opportunity to testify.

SB 699

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL  
PROTECTION  
ON  
SENATE BILL NO. 699, S.D. 2

March 15, 2011

RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL

Senate Bill No. 699, S.D. 2, establishes the Environmental Review Special Fund to be used for the purpose of helping fund the activities of the Office of Environmental Quality Control.

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 special fund would meet the requirements of Section 37-52.3 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 Senate Bill No. 699, S.D. 2, it is difficult to determine whether the fund will be self-sustaining.

DEPARTMENT OF DESIGN AND CONSTRUCTION  
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE  
MAYOR

COLLINS O LAM, P.E.  
DIRECTOR

LORI M. KAHKINA, P.E.  
DEPUTY DIRECTOR



March 14, 2011

The Honorable Hermina M. Morita, Chair  
and Members  
Committee on Energy and Environmental Protection  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Morita and Members:

Subject: Senate Bill No. 699 SD2, Relating to the Office of Environmental Quality Control

The Department of Design and Construction (DDC) respectfully **opposes** SB699 SD2, which proposes to impose fees for filing environmental review documents, including environmental assessments, environmental impact statements, preparation notices, and supplemental documents, with the Office of Environmental Quality Control (OEQC).

The OEQC's function is essentially to act as an information clearinghouse. In this role, the OEQC's responsibilities are very narrowly defined and the costs for operating should be relatively small. Suggested reforms for the OEQC in recent years have not proposed significant expansion of the OEQC's role as an information clearinghouse.

The collection of filing fees from State and county agencies would severely burden those agencies required to publish many environmental review documents on a regular basis as a function of their operations. The imposition of significant filing fees could motivate State and county agencies (including DDC) to make more liberal use of their exemption privileges to avoid the filing costs. This might not be in the best public interest.

Filing of environmental review documents should not be confused with review of plans and other construction-related documents submitted in support of applications for permits and approvals administered by county agencies and certain State agencies other than the OEQC. Significant staff time and specialized skills are required to adequately analyze and process these submittals. In contrast, the OEQC staff is not required to make any decisions or recommendations relating to the actions described in the environmental review documents that are filed by the OEQC. Only on rare occasions does the OEQC have a role in interpreting and applying the laws and regulations relating to the environmental review process as it applies to a particular proposed action. Even in that function, the OEQC's legal role and powers are very

The Honorable Hermina M. Morita, Chair  
and Members  
Committee on Energy and Environmental Protection  
March 14, 2011  
Page 2

limited. Most of OEQC's processing of environmental review documents is routine and should not generate significant operating costs.

Other State and county agencies in Hawai'i face budgetary constraints similar to those faced by the OEQC. The imposition of filing fees is neither necessary nor justified. For the reasons indicated herein, DDC respectfully **opposes** SB699 SD2.

Thank you for the opportunity to testify.

Very truly yours,

  
Collins Lam, P.E.  
Director

CDL:WB:hm

**coffman3 - Sean**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 13, 2011 8:26 PM  
**To:** EEPtestimony  
**Cc:** palmtree7@earthlink.net  
**Subject:** Testimony for SB699 on 3/15/2011 9:00:00 AM

Testimony for EEP 3/15/2011 9:00:00 AM SB699

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: janice palma-glennie  
Organization: Individual  
Address:  
Phone:  
E-mail: [palmtree7@earthlink.net](mailto:palmtree7@earthlink.net)  
Submitted on: 3/13/2011

Comments:  
aloha,  
this bill provides a reasonable way to raise funding for important environmental review.  
please support this bill.  
mahalo.



**coffman3 - Sean**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 14, 2011 10:04 PM  
**To:** EEPtestimony  
**Cc:** antolini@hawaii.rr.com  
**Subject:** Testimony for SB699 on 3/15/2011 9:00:00 AM

Testimony for EEP 3/15/2011 9:00:00 AM SB699

Conference room: 325  
Testifier position: support  
Testifier will be present: No  
Submitted by: Denise Antolini  
Organization: Individual  
Address:  
Phone:  
E-mail: [antolini@hawaii.rr.com](mailto:antolini@hawaii.rr.com)  
Submitted on: 3/14/2011

**Comments:**

I strongly support SB699, with the amendments below:

1. The findings section of the bill should be clarified as a dual purpose: to increase staffing and to support modernization of the office.
  2. The blanks for the amounts of fees should be filled back in to the original amounts for clarity. Punting does not help such an important bill move forward.
  3. The effective date should be set back to July 2011. No punting.
- Please pass SB699 with amendments.

Thank you,  
Denise Antolini  
59-463 Alapio Road  
Pupukea, HI 96712

In Support of SB 699

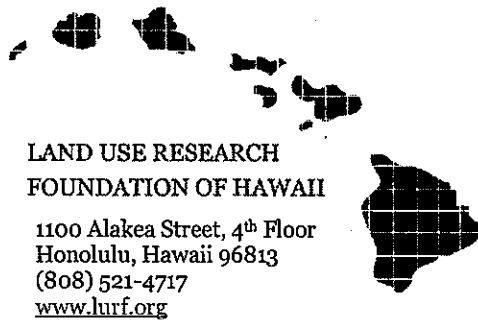
Aloha Chairs Morita and Coffman and members of the Committee.  
It makes no sense to have an Office of Environmental Quality Control  
if the office has no funding. This bill would redress that problem by  
establishing filing fees for environmental review documents.

I thank you for the opportunity to testify and respectfully ask you to  
support this bill.

Mahalo

Anthony Aalto

SB 699



March 15, 2011

Representative Hermina Morita, Chair and Representative Denny Coffman, Vice Chair  
 Committee on Energy and Environmental Protection

**Opposition and Comments to SB 699, SD2 Relating to the Office of Environmental Control** (Creates a special fund for OEQC and establishes filing fees.)

**Tuesday, March 15, 2011 at 9:00 a.m. in CR 325**

My name is David 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 regulation.

We appreciate the opportunity to provide our testimony regarding **SB 699, SD2** which proposes to create an Environmental Review Special Fund (ERSF) for the Office of Environmental Quality Control (OEQC) and also proposes to establish filing fees, exemptions from filing fees and uses relating to the ERSF. LURF's position is as follows:

- LURF believes that this bill is well-intended and supports the concept and purposes of the ERSF.
- However, LURF opposes SB 699, SD2 based on what appears to be the arbitrary fee schedule for review of environmental documents and the list for waiver of fees.
- The arbitrary fees proposed by SB 699 SD2 are inconsistent with the Chapter 91 administrative process of establishing fees for services, which will assure public hearings, public input, experts' advice and transparency.
- Instead of imposing arbitrary fees this year, we support an increase in OEQC's budget. We understand that OEQC has calculated its additional funding needs to be approximately \$206,000, and we support an increase in the State budget for OEQC.
- We respectfully recommend that the issue of fees, waivers and the use of funding be addressed by a Resolution which establishes a Working Group of stakeholders in the environmental review process to make recommendations regarding the ERSF.
- Instead of imposing arbitrary filing fees via a statute, OEQC should follow the Chapter 91 administrative process of establishing fees for services, which will assure public input, experts' advice and transparency.

- LURF is willing to cooperate with OEQC and the introducers of SB 699, SD2 to work toward a reasonable fee schedule, exemption categories, reduced fee list, and priorities for use of ERSP funds that will assist OEQC in its mission.

**SB 699, SD2.** This bill is proposing to create a special fund to assist the activities of OEQC, with part of the revenue from the implementation of arbitrary filing fees. The fund will be called the environment review special fund which shall be deposited: all filing fees and other administrative fees collected by the office; (2) Moneys collected pursuant to section 341-B; (3) All accrued interest from the special fund; and (4) Moneys appropriated to the special fund by the legislature. The proposed interim fee schedule, for state and county agencies are as follows: (1) \$1,500 for a draft environmental assessment; (2) \$1,000 for a final environmental assessment; (3) \$500 for an environmental impact statement preparation notice; (4) \$4,000 for a draft environmental impact statement; (5) \$3,000 for a final environmental impact statement; (6) \$500 for any supplemental environmental assessment; and (7) \$1,000 for any supplemental environmental impact statement. The bill also provides for a waiver criteria.

**IMPORTANT QUESTIONS – NO PUBLIC INVOLVEMENT OR TRANSPARENCY IN DETERMINING OEQC FEES.** Individual and groups who always claim to be acting in the public interest, always demand public involvement and transparency in public decision-making. Thus, the following are some questions which we believe should be answered before the ERSF is established.

- Who determined the fees, exemptions and uses of the funds?
- What specific facts and empirical data were considered in determining the setting of the fees, exemptions and uses for the funds?
- What were the assumptions and analysis that went into the setting of the fees, exemptions and use of funds?
- Was there public consultation with stakeholders in the environmental review process, such as landowners, developers and others who will be required to pay the fees; professional firms and trade organizations which prepare environmental review documents?
- Can be ERSF be “raided” by the State Administration to balance its budget? If the funds are raided, does that mean that the proposed “uses” of the ERSF will not be fulfilled?

**CONCLUSION.** Based on the foregoing reasons, LURF is in opposition of **SB 699, SD2** and we respectfully request that this **Committee hold this bill until a Working Group can be formed to provide recommendations relating to the ERSF and fees.** Instead of imposing arbitrary fees this year, **based on OEQC’s calculations and request, we support an increase in OEQC’s budget of approximately \$206,000.**

We greatly appreciate the opportunity to present our testimony regarding this matter.