

**SB 699**



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**SENATE COMMITTEE ON ENERGY AND ENVIRONMENT**  
**SB699, RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY**  
**CONTROL**

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.**  
**Acting Director of Health**

**February 3, 2011**

1 **Department's Position:** The Office of Environmental Quality Control supports the intent of SB699  
2 but requests further clarifying language in the measure.

3 **Fiscal Implications:** The proposed filing fees will affect project proponents that have to prepare  
4 environmental studies pursuant to Chapter 343, Hawaii Revised Statute, and will provide funding to  
5 improve OEQC's implementation of Chapter 343, HRS.

6 **Purpose and Justification:** Part of OEQC's mandate under Chapter 341, HRS, is to provide outreach,  
7 training, and research programs. The OEQC staff of two planners, one environmental health specialist,  
8 a secretary, and two senior volunteers from the Honolulu Community Action Program, is not adequate  
9 to provide the required services.

10 The proposed fees will provide needed funding to support the hiring of adequate staff, provide  
11 support to the Environmental Council, upgrade existing systems, and modernize technology to improve  
12 OEQC services and ensure quality of the State's environmental review process.

13 The concern with SB699 language pertains to the fees for "supplemental EAs" (page 3, line 9).  
14 There is no mention of "supplemental environmental assessments" in Chapter 343, HRS, and Chapter  
15 11-200, Hawai'i Administrative Rules. Therefore, we feel that "supplemental EAs" are not applicable.

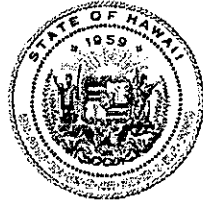
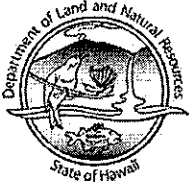
1           Also for clarification, under the current process, if a supplemental EIS is required, the project  
2           proponent has to go through the whole publication cycle again. This means that an environmental  
3           assessment/supplemental environmental impact statement preparation notice (EA/SEISPN) has to be re-  
4           filed for a 30-day comment period, followed by the supplemental draft environmental impact statement  
5           (SDEIS) for a 45-day comment period, and then the supplemental final environmental impact statement  
6           (SFEIS).

7           Because SB699 only mentions a \$500 filing fee for supplemental final EIS, we interpret this to  
8           mean the final EIS. Does the \$500 fee apply to the EA/SEISPN and the SDEIS? This is not explained  
9           in SB699.

10           Finally, line 5, page 3, talks about the environmental impact statement publication notice; please  
11           note that the proper term is environmental impact statement preparation notice.

12           Thank you very much for the opportunity to testify.

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 Senate Committee on  
ENERGY AND ENVIRONMENT**

**Thursday, February 3, 2011  
3:30 PM  
State Capitol, Conference Room 225**

**In consideration of  
SENATE BILL 699  
RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL**

The purpose of this bill is to establish significant 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) supports the needs of OEQC to establish appropriate fees to cover the cost of services. However, the Department has concerns with the process and the size of the fees imposed on the Department and our small landowner and Non-profit partners and for conservation projects that do not generate monetary profits and that support public benefits. Fees should also be related to actual costs. Costs in the ball park of \$500 for an environmental assessments (EA) and \$1,000 for an environmental impact statement (EIS) seem more appropriate.

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.  
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**

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
INTERIM DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON ENERGY AND ENVIRONMENT  
ON  
SENATE BILL NO. 699

February 3, 2011

RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL

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

As a matter of general policy, the Department of Budget and Finance does not support the creation of any special fund which does not 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, it is difficult to determine whether the fund will be self-sustaining.



EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES  
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

SENATOR MIKE GABBARD, CHAIR  
SENATOR J. KALANI ENGLISH, VICE-CHAIR  
SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

TESTIMONY RE: SENATE BILL NO. 699  
RELATING TO THE OFFICE OF ENVIRONMENTAL QUALITY CONTROL

February 3, 2011, 3:30 p.m.  
Conference Room 225

Good afternoon Chair Gabbard, Vice-Chair English and members of the committee:

My name is David Lane Henkin, and I am an attorney with Earthjustice. We appreciate the opportunity to testify in support of Senate Bill 699, which would provide much needed funding to the Office of Environmental Quality Control.

Last session, I served on the Environmental Review Working Group, which brought together a wide range of stakeholders to evaluate and recommend approaches to improve Hawai'i's environmental review process. Despite the diversity of viewpoints on the Working Group, there was unanimous agreement that OEQC needs additional funding to function. Ensuring the agency is adequately resourced promotes expeditious and thorough environmental review, which benefits everyone – developer and conservationist, residents and visitors.

By addressing the agency's current funding shortfall, SB 699 would allow OEQC to perform its intended function. We particularly appreciate the provision in the bill that moneys in the environmental review special fund would not supplant the office budget base, or any portion thereof. It is vital to increase the resources at OEQC's disposal, not merely substitute moneys from the general fund with filing fees.

For the foregoing reasons, we respectfully ask you to pass SB 699. Thank you again for the opportunity to offer this testimony.



# Sierra Club Hawai'i Chapter

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808.538.6616 [hawaii.chapter@sierraclub.org](mailto:hawaii.chapter@sierraclub.org)

## SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

February 3, 2011, 3:30 P.M.  
(Testimony is 1 page long)

### TESTIMONY IN SUPPORT OF SB 699

Chair Gabbard and members of the Committee:

The Sierra Club, Hawaii Chapter, with 8000 dues paying members and supporters statewide, *supports* SB 699. This measure implements the recommendation to establish a special fund to support the Office of Environmental Quality Control from the Environmental Review Working Group.

Last year, this Committee assembled the Environmental Review Working Group, which brought together a wide range of stakeholders to evaluate and recommend approaches to improve Hawai'i's environmental review process. Despite the diversity of viewpoints -- representing business, agencies, and environmental nonprofits -- there was unanimous agreement that the Office of Environmental Quality Control needed basic reforms and funding to adequately function. Ensuring the agency has access to appropriate resources benefits everyone, whether they be developer or conservationist.

The proposal presented before you is the work of several weeks of discussions and compromise. We believe it important to keep this recommendation largely intact, particularly the agreement that this fund would supplement OEQC's budget and not replace it.

We respectfully ask this Committee to move this bill forward. Mahalo for the opportunity to testify.

**Denise Antolini**  
59-463 Alapi'o Road Pūpūkea, O'ahu 96712  
(808) 638-5594

**Hearing on SB699**  
Senate Committee on Energy and Environment  
Hearing: Feb. 3, 2011 3:30 pm  
Conference Room 225

Dear Chair Gabbard, Vice-Chair English, and Members of the Committee:

I write in **SUPPORT of SB699**, which creates a special fund for the State Office of Environmental Quality Control (OEQC) based on limited fees for administrative services to applicants, to strengthen the governance system for Hawaii's environmental review process under H.R.S. Chapter 341.

I served as a co-principal investigator of the University of Hawaii (UH) research team that conducted a two-year study of Hawaii's environmental review system at the request of the State Legislature (Act 1, 2008). The UH study team submitted its *Final Report on Hawaii's Environmental Review System*<sup>1</sup> to the Legislature in October 2010. The Report included specific legislative recommendations to amend Chapters 341 and 343 based on the UH study, as modified during the 2010 Session by the collaboration of the diverse twelve-member "SB2818 Working Group," convened by ENE Chair Senator Gabbard.

The UH study and the Working Group took a holistic view of numerous areas of concern about the current environmental review system and proposed comprehensive inter-connected amendments, which the Working Group (after six weeks of intensive facilitated meetings) separated into two proposed draft bills: one to amend Chapter 341 (to strengthen OEQC and the Environmental Council) and one to amend Chapter 343 (omnibus amendments).<sup>2</sup>

In my view, of the cacophony of "environmental review" bills submitted this session, the only two bills at this time that are urgently needed and reflect the balanced findings of the UH study and the strong support of the Working Group relate to revising only Chapter 341: SB729 (strengthening OEQC and the Environmental Council) and SB699 (creating a fee-based special fund for modernizing OEQC). Both bills should be supported by this Committee.

**The Legislature should pass SB729 and SB699** to address the long-standing problems caused by the prior Administration's lack of support for OEQC and the Council, and the inadequate budget that has undermined the vital functions of these two bodies, together preventing Hawaii from having a robust and modern environmental review system.

Thank you.

Emailed to: [ENEstestimony@capitol.hawaii.gov](mailto:ENEstestimony@capitol.hawaii.gov)

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<sup>1</sup> A copy of the report and background documents is available at: <http://hawaiiisstudy.blogspot.com/>

<sup>2</sup> The Working Group's proposed bills, which had strong but not complete consensus, are included in the Final Report as Appendices 10 and 11. Due to the lateness of the session, neither proposed bill was formally considered by EEP or ENE.