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IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 28, 2012

LATE TESTIMONY

**HB 1813 HD1
RELATING TO SPECIAL MANAGEMENT AREAS**

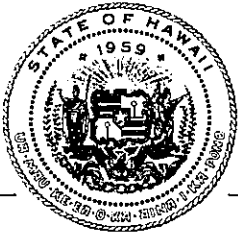
HOUSE COMMITTEE(S) ON FINANCE

The Department of Transportation (DOT) supports this bill. Exempting the DOT from the County's special management area (SMA) permit will eliminate the time and money necessary to prepare and process an SMA permit and thereby hasten project delivery.

Specifically, the securing of special management area permits can be time consuming and delay projects from going to construction when funding and procurement have been completed. Depending on the complexity of the project, processing of an SMA permit may run from several months and several thousands of dollars to a year plus and tens of thousands of dollars to retain a consultant to prepare and process the SMA application. This bill will help the Department expedite the delivery of projects, expend federal funding in a timely manner, and ultimately stimulate the economy.

Thank you for the opportunity to provide testimony.





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

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
DIRECTOR
MARY ALICE EVANS
DEPUTY DIRECTOR
JESSE K. SOUKI
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OFFICE OF PLANNING

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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON FINANCE
Tuesday, February 28, 2012
11:00 AM
State Capitol, Conference Room 308

in consideration of
HB 1813 HD1
RELATING TO SPECIAL MANAGEMENT AREAS.

Chair Oshiro, Vice Chair Lee, and Members of the House Committee on Finance.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the U.S. Congress in 1972. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. The SMA, a subset of the larger coastal zone, generally extends inland from the shoreline to the nearest highway. This is the most sensitive area of the coastal zone, within which the legislature determined that special controls on developments were needed to (1) avoid permanent losses of valuable resources and the foreclosure of management options, (2) ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided, and (3) preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii. See HRS §205A-21. Within this narrow band around the coast, proposed "development" is required to obtain an SMA permit from the respective county within which it is located.

HB1813 HD1 adds a section to Part II, and to Part III of HRS Chapter 205A, respectively, that exempts any capital improvement project (CIP) within an SMA that is funded,

wholly or partially, by state or county funds and located on state or county land from SMA permitting and shoreline setback variance.

We oppose this bill for the following reasons:

- 1) OP is working with state agencies to develop a streamlined process that maintains consistency with the federal and state approved CZM Program. In our preliminary discussions, we have had positive feedback from the state Department of Transportation and the Department of Land and Natural Resources. However, we still need to formalize the process, coordinate with other affected state agencies, and confer with the National Oceanic and Atmospheric Administration (the federal agency which funds the state's CZM Program). The Administration will have a proposed bill to address these issues in the next legislative session.

In the interim, OP supports certain stop-gap bills that exempt certain state projects from SMA permitting, because those bills include a sunset date, do not change HRS Chapter 205A, and provide that the affected agencies will consult with the CZM Program on consistency.

- 2) The SMA permit was first established in 1975 with the enactment of Act 176, known as the Shoreline Protection Act. The SMA permit is a management tool to assure that any development within an SMA is designed and carried out in compliance with the CZM objectives and policies, and SMA guidelines set forth in HRS Chapter 205A. The proposed SMA permit exemption conflicts with the intent of Chapter 205A Part II SMAs, and undermines the purpose of the SMA permit that was enacted to avoid permanent losses of valuable coastal resources and the foreclosure of management options.
- 3) Whether any of uses, activities, or operations within an SMA constitutes "development" should be determined by the existence of their potential environmental impacts. Without alternative review processes, any CIP project within an SMA which could potentially result in significant adverse environmental or

ecological effect, should be subject to the requirements of an SMA permit in order to avoid losses of valuable coastal resources.

- 4) The proposed exemption of shoreline setback variance may conflict with the intent of public health, safety, and public interests which CIP projects are supposed to provide. Pursuant to HRS §205A-46, facilities or improvements by public agencies or public utilities regulated under HRS Chapter 269 may be granted shoreline setback variance otherwise prohibited in a shoreline area. Further, no shoreline setback variance shall be granted unless appropriate conditions are imposed. These conditions are to maintain lateral access to and along the shoreline, minimize risk of adverse impacts on beach processes, and minimize adverse impacts on public views to, from, and along the shoreline.
- 5) HRS §205A-5 requires that all agencies shall enforce the objectives and policies set forth in HRS §205A-2. The proposed SMA permit and shoreline setback variance exemptions will set a bad precedent for non-CIP projects. The state should lead by example. As President Obama recently stated in his FY 2013 proposed budget, he supports a “transparent and timely permit review process, helping to bring greater certainty to business planning while protecting environmental, social, and economic benefits provided for the American public.”
- 6) HB1813 HD1 would jeopardize federal approval of the Hawaii CZM Program, and in turn, the State of Hawaii may lose approximately \$2 million of federal funds annually. This loss of federal funding translates to a loss of nine positions at OP, six positions at the planning department of Hawaii County, four positions at the planning department of Kauai County, and four positions at the planning department of Maui County. These positions perform CZM-related activities such as update and implementation of the Ocean Resources Management Plan, federal consistency reviews, coastal non-point pollution control activities, as well as review of SMA permits and shoreline setback applications and violation investigations thereof.

Thank you for the opportunity to provide testimony on this measure.



LATE

HB 1813 HD1
RELATING TO SPECIAL MANAGEMENT AREAS
House Committee on Finance

February 28, 2012

11:00 a.m.

Room 308

The Office of Hawaiian Affairs (OHA) **OPPOSES** HB 1813 HD1, which would exempt capital improvement projects (CIPs) that are funded by state or county funds and located on state or county lands, from compliance with the State's special management area permit and shoreline setback laws, which provide county-level protections to Hawai'i's shore and coastal areas.

Although OHA recognizes the importance of CIPs, the requirements contained in Chapter 205A, parts II and III Hawaii Revised Statutes, are crucial for planning and protecting Hawai'i's special management areas (SMAs) and shoreline areas. State law requires all "development" within the county-defined SMAs to obtain an SMA permit, which requires an applicant to meet certain unique guidelines, including planning for public beach access, proper solid/liquid waste disposal, and natural disaster resilience. SMA permit issuance also requires that certain environmental impacts be *minimized* before a project can be approved, including acts that would result in reductions to the size of public beaches, restrictions on coastal access, blocking lines of sight to the ocean, and adverse effects on water quality, fisheries, or wildlife habitat. The SMA process is where the coastal environment is given the attention it deserves.

HB 1813 HD1 would exempt from SMA permitting a CIP of any size, with any amount of state or county funding that takes place on state or county land. Factors like line of sight, beach access, and impacts to fisheries, wildlife habitat, or agricultural uses would no longer be reviewed as part of the SMA permitting process in every type of CIP. HB1813 HD1 would also exempt CIPs from shoreline setback restrictions on building heights near the shoreline and overarching prohibitions on building structures in the shoreline area (*e.g.*, seawalls, jetties), which have been shown to negatively impact natural beach processes.

OHA recognizes the cost and time that HB 1813 HD1 might save State agencies during the planning process for CIPs, but we believe that responsible project planning should be maintained in order to protect our fragile coastal areas and avoid costly remediation efforts in the future. Therefore, OHA urges this committee to HOLD HB 1813 HD1. Mahalo for the opportunity to testify on this measure.



Sierra Club Hawai'i Chapter

PO Box 2577, Honolulu, HI 96803
808.538.6616 hawaii.chapter@sierraclub.org

LATE

HOUSE COMMITTEE ON FINANCE

February 28, 2012, 11:00 A.M.
(Testimony is 2 pages long)

TESTIMONY IN STRONG OPPOSITION TO HB 1813 (HD1)

Aloha Chair Oshiro and Members of the Committee:

The Hawai'i Chapter of the Sierra Club, with 10,000 members and supporters, strongly *opposes* HB 1813 (HD1), which would allow the state to ignore the Coastal Zone Management act/ special management area guidelines and requirements.

This bill could allow environmentally damaging developments to escape the necessary oversight and analysis currently required in the Coastal Zone Management Act. Because state and county agencies are typically more concerned with their mission than the environment, these agencies tend to marginalize environmental concerns. For example, the Department of Transportation attempted to issue a series of "finding of no significant impacts" with the Kahului Airport until the environmental community successfully sued. It's frankly ludicrous that any agency would contend that the construction or expansion of an airport would have no significant environmental impacts . . . but DOT did, and now this bill proposes to avoid these types of bothersome regulations in the future.

Because of the fear that agencies would fail to objectively analyze all relevant factors, our legal system created a series of checks and balances (state and county approval) and public notification requirements. This measure proposes to eliminate this balance. It would eliminate regulations that ensure:

- the public is well informed of projects before they are authorized;
- that community members -- your constituents -- are able to participate in the planning process;
- that the public and the counties can suggest ways to improve projects to save money, protect natural resources, or satisfy community concerns; and

- save money in the long-term by preventing fool-hardy and short-sighted decisions.

Proponents will likely call this an economic stimulus measure. As written, it is a penny-wise, pound-foolish proposal. Do we really want to encourage the development of highways and airports without examining the particularized impacts on the neighborhood or the marine environment? The economic benefit -- if any -- is not worth the destruction of our democratic process and the resulting risks to our natural environment.

We hope you will defer this measure indefinitely. Thank you for the opportunity to testify.

L A T E

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

Testimony to the House Committee on Finance

Tuesday, February 28, 2012

11:00 a.m.

State Capitol - Conference Room 308

RE: H.B. 1813 HD1, RELATING TO SPECIAL MANAGEMENT AREAS

Chair Oshiro, Vice Chair Lee, members of the Committee:

My name is Gladys Marrone, Government Relations Director for the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii **supports the intent** of H.B. 1813 HD1, and provides the following comments. The bill proposes to exempt any state or county Capital Improvement Project (CIP) from special management area guidelines and requirements. The bill, as written, also extends the exemption of capital improvement projects funded by state or county funds located on state or county land to apply to structures to be located within a shoreline area.

The bill proposes to amend Chapter 205A HRS by adding the following sections:

Exemption for state projects. This part shall not apply to any capital improvement project within a special management area that is funded, wholly or partially, by state or county funds and located on state or county land.

Exemption for state projects. This part shall not apply to any capital improvement project within a shoreline area that is funded, wholly or partially, by state or county funds and located on state or county land.

We understand that the State Office of Planning, in a separate bill (HB 2154), indicated that they have developed an alternative permitting process for state projects that is consistent with the coastal zone management program and will present its findings to the Legislature prior to the Regular Session of 2013.

The BIA supports the legislative intent of H.B. 1813 HD1; however, given the position of the State Planning Office, we suggest that more details of the proposed "alternative permitting process" proposed by the State Planning Office be provided in order to determine if the legislation proposed in H.B. 1813 HD1 is required.

Thank you for the opportunity to share with you our views.

HOUSE COMMITTEE ON FINANCE HEARING
Tuesday, February 28, 2012
11:00 AM
House Bill 1813, HD1
Relating to Special Management Areas

LATE

Chair Oshiro and Finance Committee Members:

This testimony provides comments in **strong opposition** to HB 1813, HD1. The intent of this bill is **to exempt state projects from important and vital environmental oversight**, specifically coastal zone special management area requirements and permitting, and shoreline area protection requirements.

This measure is nothing more than a guise for enabling the State together with private interests to engage in the proliferation of high-density development that will encroach upon and strangle our island's open shorelines and recreational areas, marine resources and coastal ecosystems, and scenic open space and historic resources. HB 1813 is a transparently conscious attempt by certain present legislators and politicians to **undermine and erode** long-standing laws protecting our **finite shoreline resources and environment** in order to promote and achieve massive development to the detriment of present and future generations and finite island resources.

This Miami Beach mindset portends disaster for Hawaii – and especially Honolulu as a visitor destination. **Our island economy is dependent upon and subsidiary to our unique environment, open shoreline resources, and panoramic view planes from the mountains to the sea.**

By "exempting" State capital improvement projects **on state or county land** funded with state or county public capital, this bill will abuse and defile Hawai'i's Coastal Zone special management statutory commitment and shoreline protection **objectives** for the following irretrievable public assets:

- Coastal recreational resources and publicly accessible coastal recreational opportunities
- Beach protection for public use and recreation
- Scenic and open space resources, and restoration and improvement of their quality;
- Culturally significant historic and prehistoric resources, and their protection, preservation and restoration
- Valuable coastal ecosystems including reefs, and their protection from disruption and adverse impacts;
- Marine coastal resources and their protection to assure sustainability.

HB 1813, HD1 is the antithesis of all that has gone before to serve Hawai'i's Coastal Zone Special Management and Shoreline Protection in the Greater Public Interest.

Please HOLD this bill!

M S Matson
Honolulu

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 5:35 AM
To: FINTestimony
Cc: NaLeoHawaiian@aol.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Mahelani Sylva
Organization: Individual
E-mail: NaLeoHawaiian@aol.com
Submitted on: 2/28/2012

Comments:

Chairpersons and Committee Members,

I am in strong opposition to HB1813. Special Management Area needs the protection of the review process provided by the Coastal Zone Management Act.

Passing these "exemption" bills to speed up the process is like going to a fast food burger joint . . . "Fast food burger joint is quick and addresses the hunger". Is the Burger joint concerned with your health? No. and welfare? No - Concern, Profit. Does it provide the nutritional requirements needed to sustain the body? Not really. Will it negatively affect your health in the long run? Yes - Your Problem. Is it cost effective? No - Profit. So, Why do we go? Cause it's fast.

"Exemption speeds up the process to get things done";. Does exempt mean being concerned about the health of the environment and the welfare of concerned members of the community. No - the means (CZMA) by which both are considered, have been removed. Will exempt meet the requirements for sustainability? Doesn't matter if it does or doesn't, they're exempt! Will being exempt negatively affect the health of the land? Increased Probability, Fast-tracking or shall I say streamlining, does have its' risks. Is it cost effective? Only if we don't accidently damage or destroy something. So, why would you vote to pass this bill?

ECONOMICS - One for the money, Two for the Show!

Instead, be Pono and Vote NO to HB1813

Mahalo,

Mahelani Sylva

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 9:05 AM
To: FINTestimony
Cc: mariebro@hawaii.edu
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marie Alohalani Brown
Organization: Individual
E-mail: mariebro@hawaii.edu
Submitted on: 2/28/2012

Comments:

Quoting Hawaii Chapter, "This measure exempts all state or county capitol improvement projects from the review process contained in the coastal zone management act. The CZMA is intended to provide public management for our coastal and ocean resources and ensure balance between economic development and environmental conservation. Why should the state or county opt out of considering public beach acces, how much runoff goes into the ocean, and future sea level rise?"

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 3:10 AM
To: FINTestimony
Cc: shellemuneoka@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Shelley Muneoka
Organization: Individual
E-mail: shellemuneoka@gmail.com
Submitted on: 2/28/2012

Comments:

I strongly oppose bill HB1813. This measure exempts all state or county capitol improvement projects from the review process contained in the coastal zone management act. The CZMA is intended to provide public management for our coastal and ocean resources and ensure balance between economic development and environmental conservation. Why should the state or county opt out of considering public beach access, how much runoff goes into the ocean, and future sea level rise? They shouldn't be, please kill HB1813. Mahalo.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 7:14 AM
To: FINTestimony
Cc: Vaihere13@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Vaihere Sunaoka
Organization: Individual
E-mail: Vaihere13@gmail.com
Submitted on: 2/28/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 8:17 AM
To: FINTestimony
Cc: brutusluv@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Blake J La Benz
Organization: Individual
E-mail: brutusluv@gmail.com
Submitted on: 2/28/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 7:39 AM
To: FINTestimony
Cc: jepsona001@hawaii.rr.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Andrea Jepson
Organization: Individual
E-mail: jepsona001@hawaii.rr.com
Submitted on: 2/28/2012

Comments:

Exemptions from the SMA process pose a real threat to our environment. Surely there is a way to provide jobs without destroying this very important permitting process.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 12:03 AM
To: FINTestimony
Cc: ileanahaunani@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Ileana H Ruelas
Organization: Individual
E-mail: ileanahaunani@gmail.com
Submitted on: 2/28/2012

Comments:

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 8:21 AM
To: FINTestimony
Cc: megalchau@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Meghan Leialoha Au
Organization: Na Wahine Oiwi
E-mail: megalchau@gmail.com
Submitted on: 2/28/2012

Comments:

Exemptions will kill us all. Enough damage has already been done with irresponsible legislation and government. I strongly oppose this bill.

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 9:34 AM
To: FINTestimony
Cc: ChoonJamesHawaii@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Justifier position: Oppose
Justifier will be present: No
Submitted by: Choon James
Organization:
E-mail: ChoonJamesHawaii@gmail.com
Submitted on: 2/28/2012

LATE TESTIMONY

Comments:

OPPOSE HB 1813 HD1 - that exempts any state or county Capital Improvement Project (CIP) from the counties Special Management Area (SMA) permitting process.

This Bill and other similar bills are heading our state into the wrong direction.

Democratic processes are not autocratic.

You must not turn us into a Banana Republic.

BILL 1813 has no plan here. Please table this very bad idea.

Under the SMA process counties assess and regulate development proposals in the SMA for compliance with Hawaii's Coastal Zone Management program objectives and policies.

Public participation in the SMA process is critical and would be eliminated should you pass this bill.

POINTS IS WRONG.

You will alienate and cut off public involvement. There is a reason for due processes like these. These processes are meant to protect the public: to allow affected and concerned citizens to share their knowledge.

You cannot deny the public basic due process. Vain excuses like "expediency" and "jobs" to fast-track these processes do not cut it.

Mahalo,

Choon James
Kahuku, Hawaii

808 293 9111
ChoonJamesHawaii@gmail.com

FINTestimony

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 28, 2012 10:16 AM
To: FINTestimony
Cc: marvmathews@gmail.com
Subject: Testimony for HB1813 on 2/28/2012 11:00:00 AM

LATE TESTIMONY

Testimony for FIN 2/28/2012 11:00:00 AM HB1813

Conference room: 308
Testifier position: Oppose
Testifier will be present: No
Submitted by: Marvin Mathews
Organization: Individual
E-mail: marvmathews@gmail.com
Submitted on: 2/28/2012

Comments:

The CMZA is to protect our fragile and vital coastal zone. To exempt capital improvement projects from review process opens the door to environmental abuses. Please do not pass this bill.

Thank you