

HB2154, HD2

RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS.

Adds a temporary exemption from the Special Management Area Use and Minor Permit requirements for airport development that is necessary to comply with Federal Aviation Administration regulations. (HB2154 HD1)

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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HONOLULU, HAWAII 96813-5097

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IN REPLY REFER TO:

March 12, 2012

**H.B. 2154, H.D. 2
RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS**

SENATE COMMITTEE ON TRANSPORTATION & INTERNATIONAL AFFAIRS

The Department of Transportation supports House Bill No. 2154, HD2. This bill will exempt development at airports from special management area permitting requirements if the development is necessary to comply with Federal Aviation Administration (FAA) regulations.

Securing special management area permits can be time consuming and delay projects from going to construction when funding and procurement have been completed. This bill will help the Department complete projects quicker to insure compliance with FAA regulations concerning requirements such as airfield safety and also assist with the ability to receive discretionary grants which are based on timely expenditure performance.

Thank you for the opportunity to provide testimony.





DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
**SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL
AFFAIRS**
Monday, March 12, 2012
1:16 PM
State Capitol, Conference Room 224

in consideration of
HB 2154 HD2
RELATING TO SPECIAL MANAGEMENT AREAS.

Chair English, Vice Chair Espero, and Members of the Senate Committee on Transportation and International Affairs.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, the Coastal Zone Management (CZM) law. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program.

HB 2154 HD2 is a sunset bill to exempt all structures and improvements to land, to be used for airport purposes from SMA permitting provided that the structures and improvements relating to airports are necessary to comply with Federal Aviation Administration (FAA) regulations.

OP supports HB 2154 HD2 for the following reasons:

- 1) Federal Aviation Administration (FAA) permits and licenses are identified on the National Oceanic and Atmospheric Administration (NOAA) approved list of "Federal Licenses and Permits Subject to Federal Consistency Certification," in accordance with 15 Code of Federal Regulations section 930.53. The FAA "permits and licenses for construction and operation of airports" are subject to Hawaii Coastal Zone Management (CZM) Program federal consistency review.
- 2) The requirements of the National Environmental Policy Act (NEPA) and Hawaii Revised Statutes (HRS) Chapter 343 Environmental Impact Statements (EIS) are applicable to structures and improvements relating to airports. The Office of Planning as the lead agency of Hawaii CZM Program will continue to review and comment on NEPA and EIS documents in that regard.
- 3) HB 2154 HD2, which amends HRS §261-4, will provide the department of transportation with sufficient authority to plan, design and construct airports, subject to Hawaii CZM Program federal consistency review, without sacrificing special controls on developments within an area along the shoreline in order to avoid permanent losses of valuable coastal resources.
- 4) At the administration's direction, OP is working on an alternative process to SMA permitting for state projects that will be consistent with the CZM Program. Recommendations for alternative processes, in consultation with state agencies, will be completed before the next legislative session.

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

BIA-HAWAII
BUILDING INDUSTRY ASSOCIATION

Testimony to the Senate Committee on Transportation and International Affairs
Monday, March 12, 2011
1:16 p.m.
State Capitol, 224

H.B. 2154 HD 2 RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS

Chair English, Vice Chair Espero, and Members of the Committee:

I am Gladys Marrone of 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 H.B. No. 2154 HD2, which proposes to exempt airport projects necessary to comply with Federal Aviation Administration (FAA) regulations from obtaining a Special Management Area (SMA) permit.

Chapter 205A HRS was created by the Legislature and allowed for “. . . special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves are provided. The legislature finds and declares that it is the State’s policy to preserve, protect, and, where possible, to restore the natural resources of the coastal zone of Hawaii.”

It would appear that the time to address the shoreline management issues would be when the facility, in this case a government airport, is first being proposed. Logically, then, if there is an impact, the airport should not be built. Once it is built, it would appear to be overly redundant to issue a SMA permit each time any work is being done within the airport facility.

The narrowly worded exemption would expedite airport projects being built that are necessary to comply with FAA requirements. Perhaps, given the original intent of Chapter 205A, HRS, the entire airport should be exempt or at the very least granted a SMA permit for the entire facility.

Thank you for this opportunity to express our views.



**Testimony to the Senate Committee on Transportation and International Affairs
Monday, March 12, 2011 at 1:16 p.m.
Conference Room 224, State Capitol**

HOUSE BILL NO. 2154 HD 2 RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS

Chair English, Vice Chair Espero, and Members of the Committee:

The Chamber of Commerce of Hawaii is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber of Commerce of Hawaii supports H.B. No. 2154 HD2 which proposes to exempt airport projects necessary to comply with Federal Aviation Administration (FAA) regulations from obtaining a Special Management Area (SMA) permit.

Chapter 205A HRS was created by the Legislature and allowed for "... special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves are provided. The legislature finds and declares that it is the state policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii."

It would appear that the time to address the shoreline management issues would be when the facility, in this case a government airport, is first being proposed. Logically, then if there is an impact, the airport should not be built. Once it is built, it would appear to be overly redundant to issue a SMA permit each time any work is being done within the airport facility.

The narrowly worded exemption would expedite airport projects being that are necessary to comply with FAA requirements. Perhaps, given the original intent of Chapter 205A, HRS, the entire airport should be exempt or at the very least granted a SMA permit for the entire facility.

Thank you for this opportunity to express our views.

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Website: www.gcahawaii.org



GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

Uploaded via Capitol Website

March 12, 2012

TO: HONORABLE SENATORS J. KALANI ENGLISH, CHAIR, WIL ESPERO, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS.

SUBJECT: **SUPPORT OF H.B. 2154, HD2, RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS.** Adds a temporary exemption from the Special Management Area Use and Minor Permit requirements for airport development that is necessary to comply with Federal Aviation Administration regulations.

HEARING

DATE: Monday, March 12, 2012

TIME: 1:16 P.M.

PLACE: Conference Room 224

Dear Chair English, Vice Espero and Members of the Committee,

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 and is celebrating its 80th anniversary this year; GCA remains the largest construction association in the State of Hawaii whose mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest. **GCA is in support of H.B. 2154, HD2, Relating to Special Management Area Use Permits.**

This bill would amend Section 261-4, Hawaii Revised Statutes to provide an exception to the Special Management Area Use Permit requirement relating to development to exclude airports, structures and improvements when such work is necessary to comply with Federal Aviation Administration (FAA) regulations. The purpose of this measure is to assist the Department of Transportation in the effective and efficient operation of its airport facilities by providing a temporary exemption from special management area minor and use permit requirements for airport facility development that is necessary to comply with Federal Aviation Administration requirements.

GCA supports the passage of H.B. 2154, HD2 to insure that Hawaii's airport structures are safe for the traveling public. The tourist industry, as a vital part of Hawaii's economy depends on air travel to transport the majority of visitors. Air cargo constitutes a large part of the necessities for our citizens. We cannot afford to see any disruption in air traffic due to failure of our airports to comply with FAA regulations.

Since this exemption will be only for a period of less than two years, no major construction can be mounted in that time and therefore, we believe that it is a reasonable and prudent method to ensure compliance with federal regulation.

For these reasons, GCA supports the passage of H.B. 2154, HD2, and recommends its passage.

Thank you for the opportunity to provide our support on this measure.



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March 12, 2012

COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

Senator J. Kalani English, Chair

Senator Will Espero, Vice Chair

HB 2154 HD2

RELATING TO SPECIAL MANAGEMENT AREA USE PERMIT

Committee Chair and Members:

Hawaii's Thousand Friends, a statewide non-profit land and water use organization, opposes HB 2154, HD2 that temporarily exempts airport development necessary to comply with Federal Aviation Administration regulations from Special Management Area Use and Minor Permit requirements.

This bill is vague. Which FAA regulations must DOT comply with that make it necessary to seek exemptions from Hawaii's coastal protection program?

HB 2154 HD2 is unnecessary because federally funded projects need to obtain a Coastal Zone Management consistency determination from the State Office of Planning.

HB 2154 HD2 is *premature*. According to Office of Planning Director Jesse Souki the Office of Planning is working on alternative processes from state projects that are consistent with Hawaii's CZM program and is working on recommendations for alternative processes for the 2013 legislative session.

The Special Management Area permit process of Hawaii's CZM program was established by the legislature upon determination that "...special controls on developments within an area along the shoreline are necessary to avoid permanent loss of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided." (§205A-21)

State agencies should be setting the example for private businesses on how to work within the system that protects Hawaii's fragile coastal resources instead of looking for ways to opt out. HB 2154 HD2 establishes a bad precedent and **must be held** in committee.



Sierra Club Hawai'i Chapter

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

SENATE COMMITTEE ON TRANSPORTATION AND INTERNATIONAL AFFAIRS

March 12, 2012, 1:16 P.M.
(Testimony is 1 page long)

TESTIMONY IN OPPOSITION TO HB 2154 (HD2)

Aloha Chair English and Committee Members -

The Sierra Club, Hawai'i Chapter, with 10,000 dues-paying members and supporters, opposes HB 2154 (HD2). This bill would exempt airport projects from the coastal zone management act if it is "necessary to comply with Federal Aviation Administration regulations."

This bill is vague and unnecessary. The language "necessary to comply with Federal Aviation Administration" could be used to justify virtually any airport project.

Assuming the intent of this bill is to authorize emergency situations (comply with the federal regulations or "else"), the bill should reflect a determination by the FAA that state airport does not comport with pertinent regulations and particular changes are needed. ***At the very least, this bill should require some finding of emergency, such as public health or safety, that would justify the exemption.***

Mahalo for the opportunity to submit testimony.

Choon James

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 10, 2012 2:05 PM
To: TIATestimony
Cc: ChoonJamesHawaii@gmail.com
Subject: Testimony for HB2154 on 3/12/2012 1:16:00 PM

Testimony for TIA 3/12/2012 1:16:00 PM **HB2154**

Conference room: 224
Testifier position: **Oppose**
Testifier will be present: No
Submitted by: **Choon James**
Organization: Individual
E-mail: ChoonJamesHawaii@gmail.com
Submitted on: 3/10/2012

Comments:
NO to HB 2154 HD2

Aloha to all:

This 2012 session has been the mother of all exemptions at the State Capitol. This cannot be good for the general public.

Please do not dilute public involvement and due process. These statutes and laws are for the public protection and well-being. Don't circumvent them.

Planners, bureaucrats and developers (who are paid) need to get organized and plan ahead. Then, you won't have to beg for short-cut exemptions to this and to that. No one should be above the laws that protect the public good.

Mahalo,

Choon James
Kahuku, Hawaii
Background:
HB 2154 HD2 (sponsored by Souki, Chang, Chong, Har, Ito, McKelvey, Oshiro, Say, Yamashita, and Keith-Agaran).

This bill exempts airport development statewide from Special Management Area Use (SMA) Permits.

It is vague and unnecessary because federally funded projects need to obtain a Coastal Zone Management consistency determination from the State Office of Planning.

DOT is well aware of the Federal Aviation Administration permits and licenses necessary for construction and operation of airports and have operated under those provisions for years. Why the rush now to circumvent federal requirements?

Exempting airport construction projects from the SMA process endangers our islands coastal marine resources.

In testimony on this bill, Office of Planning director Jesse Souki stated "At the administration's direction, OP is working on alternative processes for state projects that

are consistent with the CZM program. Recommendations for alternative processes, in consultation with state agencies, will be completed before the next legislative session."

If that is the case, then why is this exemption necessary? Or is it part of a larger exemption process that the public is not aware of?

STATION LUM H

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 10, 2012 8:31 AM
To: TIATestimony
Cc: Hulame@hawaiiantel.net
Subject: Testimony for HB2154 on 3/12/2012 1:16:00 PM

Testimony for TIA 3/12/2012 1:16:00 PM HB2154

Conference room: 224
Testifier position: Oppose
Testifier will be present: No
Submitted by: Danielle Guion-Swenson
Organization: Individual
E-mail: Hulame@hawaiiantel.net
Submitted on: 3/10/2012

Comments:
Vote No on this bill as this could set a dangerous precedent and more not less scrutiny should be given to large and precariously situated projects i.e. airports and landing strips near the precious coastline. Thank you.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 10, 2012 5:08 AM
To: TIATestimony
Cc: rkaye@mdi.net
Subject: Testimony for HB2154 on 3/12/2012 1:16:00 PM

Testimony for TIA 3/12/2012 1:16:00 PM HB2154

Conference room: 224
Testifier position: Oppose
Testifier will be present: No
Submitted by: Robin Kaye
Organization: Individual
E-mail: rkaye@mdi.net
Submitted on: 3/10/2012

Comments:

Please do NOT pass HB2154 HD2. We need to protect the well-established SMA process, not gut it. Airport development needs to follow the SMA permit processes.

Sharon Lum Ho

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 09, 2012 5:45 PM
To: TIATestimony
Cc: carolphilips1@gmail.com
Subject: Testimony for HB2154 on 3/12/2012 1:16:00 PM

Testimony for TIA 3/12/2012 1:16:00 PM HB2154

Conference room: 224
Testifier position: Oppose
Testifier will be present: No
Submitted by: Carol Philip
Organization: Individual
E-mail: carolphilips1@gmail.com
Submitted on: 3/9/2012

Comments:

Aloha Honorable Legislators,

Hawaii's coastal zones are one of our greatest resources, especially how it supports tourism which is our primary source of capitol. Please vote no on this bill and reevaluate the pressure to move so quickly on shoreline developments.

Respectfully and with Aloha,
Carol Philips

March 11, 2012

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 11, 2012 2:51 PM
To: TIATestimony
Cc: pahinuik001@hawaii.rr.com
Subject: Testimony for HB2154 on 3/12/2012 1:16:00 PM

Testimony for TIA 3/12/2012 1:16:00 PM HB2154

Conference room: 224
Testifier position: **Oppose**
Testifier will be present: No
Submitted by: **Kathleen Pahinui**
Organization: Individual
E-mail: pahinuik001@hawaii.rr.com
Submitted on: 3/11/2012

Comments:

Staron Lum

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 11, 2012 5:31 PM
To: TIATestimony
Cc: chunzy@mac.com
Subject: Testimony for HB2154 on 3/12/2012 1:16:00 PM

Testimony for TIA 3/12/2012 1:16:00 PM HB2154

Conference room: 224
Testifier position: Oppose
Testifier will be present: No
Submitted by: Eric Chun
Organization: Individual
E-mail: chunzy@mac.com
Submitted on: 3/11/2012

Comments: