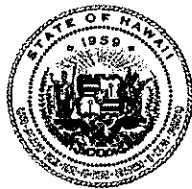


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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
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HONOLULU, HAWAII 96813-5097

IN REPLY REFER TO:

January 30, 2012

HB 2154
RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS

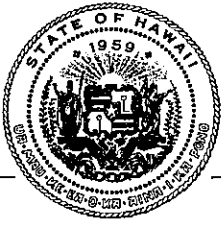
HOUSE COMMITTEE ON TRANSPORTATION

The Department of Transportation supports House Bill No. 2154. 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**

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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 TRANSPORTATION
Monday, January 30, 2012
9:00 AM
State Capitol, Conference Room 309

in consideration of
HB 2154
RELATING TO SPECIAL MANAGEMENT AREAS

Chair Souki, Vice Chair Ichiyama, and Members of the House Committee on
Transportation.

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 state's approved CZM Program. HB 2154 amends HRS Section 205A-28 to exempt any development relating to airports subject to chapter 261 from SMA permitting if the development is necessary to comply with Federal Aviation Administration (FAA) regulations.

The FAA "permits and licenses for construction and operation of airports" are subject to Hawaii CZM Program federal consistency review. However, the federal consistency review does not specifically address the guidelines of SMA permits. 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.

OP supports the intent of HB 2154, but introduces alternative language that amends HRS Section 261-4, to accomplish the intent of this bill.

RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 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 CFR 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.

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.

The purpose of this Act is to 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 loss of valuable coastal and ocean resources.

SECTION 2. Section 261-4, Hawaii Revised Statutes, is amended by amending Subsection (c) to read as follows:

"(c) Structures and improvements. ~~[All]~~ Notwithstanding any law or provision to the contrary, all structures and improvements to land, to be used for airport purposes[~~r~~ may]

- (1) May be planned, designed, and constructed by the Department[~~r~~]; and
- (2) Shall be allowed without the need to obtain a special management area minor permit or special management area use permit provided that the structures and improvements relating to airports are necessary to comply with Federal Aviation Administration regulations."

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. The Act shall take effect upon its approval, and shall be repealed on June 30, 2013, provided that section 261-4(c), Hawaii Revised Statutes, shall be reenacted in the form in which it read on the day before the effective date of this Act.

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



**Testimony to the House Committee on Transportation
Monday, January 30, 2012
9:00 a.m.
State Capitol - Conference Room 309**

**RE: HOUSE BILL NO. 2154 RELATING TO SPECIAL MANAGEMENT AREA USE
PERMITS**

Chair Souki, Vice Chair Ichiyama, and members of the committee:

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

The Chamber 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.

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.



Sierra Club Hawai'i Chapter

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

HOUSE COMMITTEE ON TRANSPORTATION

January 30, 2012, 9:00 A.M.
(Testimony is 1 pages long)

TESTIMONY IN OPPOSITION TO HB 2154

Aloha Chair Souki and Committee Members -

The Sierra Club, Hawai'i Chapter, with 9,000 dues-paying members and supporters, opposes HB 2154. 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. Governor Abercrombie recently utilized the possibility of a Nene bird strike to move nearly 20% of the remaining Nene geese in the world from Kauai to other islands. No known Nene goose strikes have occurred. The Department of Transportation was quoted as saying they were not concerned about the possibility of a Nene bird strike. This was a false emergency and because of the exemption, Nene are potentially being moved to locations where they potentially are being put at greater risk from predators.

Similarly, here, this bill could be utilized to unreasonably justify projects when there is an arbitrary determination that such a project is required under FAA regulations.

At the very least, this bill should require some emergency that would justify the exemption -- otherwise, there cannot be harm with requiring DOT to interact with experts on how to mitigate potential impacts to the coastline and our reefs.

Mahalo for the opportunity to submit testimony.