

HB2154 SD2

RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS.

Adds an exemption from the special management area use and minor permit requirements for the airport development that is necessary to comply with Federal Aviation Administration regulations. Allows the board of land and natural resources to exempt certain state projects from coastal zone management and shoreline setback requirements. Repeals on 6/30/2015. (SD2)



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

IN REPLY REFER TO:

March 27, 2012

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

HOUSE COMMITTEE ON WATER, LAND, AND HOUSING

The Department of Transportation (DOT) supports House Bill 2154 HD2 SD2 Proposed. 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.

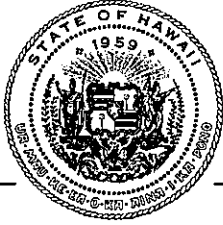
Securing special management area permits can be time consuming and delay projects from going to construction when funding and procurement have been completed. This bill will help the Department complete projects quicker to insure compliance with FAA regulations concerning requirements such as airfield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

Overall, there are several bills circulating this year to exempt these measures and while we are not trying to circumvent environmental requirements since we also want to protect the environment. We need to streamline the process, by eliminating duplication. We need jobs and by streamlining the process we would be better able to get the people of Hawaii working.

We defer to the Department of Land and Natural Resources the provision under Part II of this bill which allows the Board of Land and Natural Resources to exempt certain state projects from coastal zone management and shoreline setback requirements.

Thank you for the opportunity to provide testimony.





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

NEIL ABERCROMBIE
GOVERNOR
RICHARD C. LIM
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MARY ALICE EVANS
DEPUTY DIRECTOR
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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 WATER, LAND, AND HOUSING
Tuesday, March 27, 2012
1:20 PM
State Capitol, Conference Room 225

in consideration of
**HB 2154 HD2 SD2 PROPOSED
RELATING TO SPECIAL MANAGEMENT AREAS.**

Chair Dela Cruz, Vice Chair Solomon, and Members of the Senate Committee on Water, Land, and Housing.

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 SD2 Proposed sunsets on June 30, 2015. This bill exempts 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.

Your committee recently added sections 3 and 4, which provides the Board of Land and Natural Resources the authority to exempt any state project from the requirements of part II and part III of HRS Chapter 205A.

OP supports section 2 of HB 2154 HD2 SD2 Proposed, and proposes an amendment to section 4 of the bill to ensure consistency with the National Coastal Zone Management Act.

OP supports section 2 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 CZM Program federal consistency review.
- 2) The requirements of the National Environmental Policy Act (NEPA) and Hawaii HRS Chapter 343 Environmental Impact Statements (EIS) are applicable to structures and improvements relating to airports. OP 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 SD1, 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. Recommendations for alternative processes, in

consultation with state agencies, will be completed before the next legislative session. In accordance with the committee report (Stand. Com. Rep. No. 2837) from the Senate Committee on Transportation and International Affairs, “[i]f alternative processes are approved, your Committee requests the Department of Transportation to follow those processes in lieu of the temporary exemption under this measure, assuming those alternative processes protect valuable coastal and ocean resources.”

OP proposes the following amendment to section 4 of the bill (at page 10, lines 14-19):

"(20) [Exempt] After consultation with OP, exempt any state project, from the requirements of part II and part III of chapter 205A. As used in this paragraph, "state project" means a development as defined in section 205A-22 for which:

- (A) The contracting agency is a state agency; and
- (B) The funding includes state or federal funds; and"

The proposed amendment above will require that consultation with OP is performed before the Board of Land and Natural exempts any state project from the requirements of Parts II and III of HRS Chapter 205A. This would help ensure that the state remains consistent with the National Coastal Zone Management Act.

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



Testimony to the Senate Committee on Water, Land, and Housing
Tuesday, March 27, 2011
1:20 p.m.
State Capitol, 225

H.B. 2154 HD 2 SD1 Proposed SD2, RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS

Chair Dela Cruz, Vice Chair Solomon, and Members of the Committee:

I am 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** H.B. No. 2154 HD2 SD1 Proposed SD2, which proposes to exempt airport projects necessary to comply with Federal Aviation Administration (FAA) regulations from obtaining a Special Management Area (SMA) permit, and allows the Board of Land and Natural Resources to exempt certain state projects from coastal zone management and shoreline setback requirements.

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.

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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 27, 2012

TO: HONORABLE SENATORS DONOVAN DELA CRUZ, CHAIR, MALAMA SOLOMAN, VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE ON WATER, LAND AND HOUSING.

SUBJECT: **SUPPORT OF H.B. 2154, HD2, SD1, PROPOSED SD2 RELATING TO SPECIAL MANAGEMENT AREA USE PERMITS.** Adds an exemption from the special management area use and minor permit requirements for airport development that is necessary to comply with Federal Aviation Administration regulations. Allows the board of land and natural resources to exempt certain state projects from coastal zone management and shoreline setback requirements. Repeals on 6/30/2015. (SD2 Proposed)

HEARING

DATE: Tuesday, March 27, 2012
TIME: 1:20 P.M.
PLACE: Capitol Room 225

Dear Chair Dela Cruz, Vice Chair Solomon, 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, SD1, PROPOSED SD2, Relating to Special Management Area Use Permits.

Part I of the Proposed SD2 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.

Part II of the Proposed SD2 would temporarily authorize the Board of Land and Natural Resources to exempt certain state projects from special management area and shoreline setback requirements under the Coastal Zone Management laws under Chapter 205A. This exemption would only apply to state projects where the state is the contracting agency or state or federal funds are expended for the project.

GCA supports the passage of H.B. 2154, HD2, SD1, Proposed SD2 to insure that Hawaii's airport structures are safe for the traveling public. Moreover, the Department of Transportation requires the authority provided in Part I of this measure to plan, design, and construct airports, subject to the Hawaii coastal zone management program federal consistency review, without sacrificing special controls on developments within an area along the shoreline. The tourist industry, as a vital part of Hawaii's economy depends on air travel to transport the majority of visitors. Air cargo constitutes

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 26, 2012 12:40 PM
To: WLH Testimony
Cc: htf@lava.net
Subject: Testimony for HB2154 on 3/27/2012 1:20:00 PM
Attachments: SB 2154 SD1 HD1 proposed SD2.pdf

Testimony for WLH 3/27/2012 1:20:00 PM HB2154

Conference room: 225
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Donna Wong
Organization: Hawaii's Thousand Friends
E-mail: htf@lava.net
Submitted on: 3/26/2012

Comments:

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 26, 2012 8:42 AM
To: WLH Testimony
Cc: bobloy@outdoorcircle.org
Subject: Testimony for HB2154 on 3/27/2012 1:20:00 PM

Testimony for WLH 3/27/2012 1:20:00 PM HB2154

Conference room: 225
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: Bob Loy
Organization: The Outdoor Circle
E-mail: bobloy@outdoorcircle.org
Submitted on: 3/26/2012

Comments:

The Outdoor Circle still strongly objects to this legislation despite the repeated efforts to amend it. The new, proposed SD 2 does nothing to address our primary concerns as it still contains the following completely unacceptable elements:

- exempts any state airport project from the county Special Management Area Use (SMA) and minor permit process.
- exempts any state airport project from the Shoreline Setback requirement administered by the Board of Land and Natural Resources (BLNR)
- eliminates public input and involvement in the county SMA process for state airport projects proposed within a county Special Management Area
- eliminates the public notice requirement that requests seeking a variance for a prohibited structure or activity within the shoreline setback area be published in the Office of Environmental Quality Control (OEQC) bulletin

This committee needs to listen to the unwavering, strong voices of nearly every environmental organization in the state as well as countless individual citizens and put this destructive legislation to rest...permanently.

Please stop this assault on Hawaii's environment and vote to stop HB2154, HD1, Sd1, SD2 (proposed) from moving forward.

Bob Loy
Interim CEO
Director of Environmental Program
The Outdoor Circle
808-593-0300

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 23, 2012 6:12 PM
To: WLH Testimony
Cc: inunyabus@gmail.com
Subject: Testimony for HB2154 on 3/27/2012 1:20:00 PM

Testimony for WLH 3/27/2012 1:20:00 PM HB2154

Conference room: 225
Testifier position: Oppose
Testifier will be present: Yes
Submitted by: E. Dunbar
Organization: Individual
E-mail: inunyabus@gmail.com
Submitted on: 3/23/2012

Comments:

Aloha Committee Chair and Members:

If you claim exemptions to be necessary in order to comply with Federal Aviation Administration regulations, then this is a contradiction in the law. Just because something is federal doesn't mean you are automatically required to jump.

If it becomes necessary to exempt projects, regardless of what they are, from the protections mandated in the HRS, then there is something seriously wrong with the whole planning scheme. Cases such as this will be cited for precedent.

You are embarking on a mission to destroy your cash cow.

As with this request and all others that ask for exemption, especially Abercrombie's public lands development, actions such as this are not what you are in office to accomplish.

Besides being in complete contradiction to your oaths, if the thought of Hawaii being covered in concrete to purportedly increase the overall carrying capacity for revenue, then maybe the realization that you won't be re-elected will spur you to vote according to the Hawaii State Constitution.

What is it called when runaway/ over-development no longer applies because it becomes moot? You have had your shot with Oahu and visitors skip that island if it can be excluded from their travel package.

NO exemptions anymore. Enough already.

These acts are unacceptable for a legislator.

[REDACTED]

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 26, 2012 7:15 AM
To: WLH Testimony
Cc: dhallhi@yahoo.com
Subject: Testimony for HB2154 on 3/27/2012 1:20:00 PM

Testimony for WLH 3/27/2012 1:20:00 PM HB2154

Conference room: 225
Testifier position: Oppose
Testifier will be present: No
Submitted by: David W. Hall
Organization: Individual
E-mail: dhallhi@yahoo.com
Submitted on: 3/26/2012

Comments:

I am opposed to this bill as it does not permit public input.