

# HB2594

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

Proposes a constitutional amendment to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners make their facilities compliant with current safety standards. (HB2594 HD2)

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

**WILLIAM J. AILA, JR.**  
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

**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the Senate Committees on  
WATER, LAND, AND HOUSING  
and  
JUDICIARY AND LABOR**

**Tuesday, March 20, 2012  
12:30 P.M.  
State Capitol, Conference Room 016**

**In consideration of  
HOUSE BILL 2594, HOUSE DRAFT 2  
PROPOSING AN AMENDMENT TO  
ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO  
ASSIST DAM AND RESERVOIR OWNERS**

House Bill 2594, House Draft 2 proposes an amendment to the Hawaii State Constitution, to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners. The Department of Land and Natural Resources (Department) strongly supports this Administration measure as it could assist dam and reservoir owners by providing an economic means to bring their facilities up to current safety standards.

The implementation of the Dam and Reservoir Safety Act of 2007 mandates dam and reservoir owners to bring their dams and reservoirs into compliance. Over 80 per cent of the dams in Hawaii were constructed before 1940 to support the sugarcane plantations. Due to the age of these facilities and deferred maintenance due to demise of the sugar industry, without needed safety improvements, many dams could pose risks to life and property due to dam failures. Depending on the extent of the required improvements, some dam and reservoir owners may not have the resources to fund them.

Dams and reservoirs provide many public benefits as a potential resource for agriculture, water supply, recharge, flood control, hydropower and other beneficial uses. Dams are a critical part of our state infrastructure, providing benefits upon which our communities and industries depend. The alternative of bringing a dam into compliance would be to decommission the structure entirely, which would preempt the many benefits that dams provide.

Thank you for the opportunity to comment.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEES ON WATER, LAND, AND HOUSING AND  
JUDICIARY AND LABOR  
ON  
HOUSE BILL NO. 2594, H.D. 2

March 20, 2012

PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII  
STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

House Bill No. 2594, H.D. 2, proposes amendments to Article VII, Section 12 of the  
Hawaii State Constitution, to authorize the State to issue special purpose revenue bonds to assist  
dam and reservoir owners.

The Department supports this administration bill as it will provide dam and reservoir  
owners with a means to enhance dam and reservoir safety. Although this mechanism is offered  
in order to give some form of financing options and flexibility to property owners, please note  
that there are significant procedural and compliance requirements that must be met before any  
special purpose revenue bonds could be structured for any transaction. The compliance  
requirements would be placed on dam and reservoir owners who will need to, at the very least,  
be able to generate sufficient revenues in order to support the issuance of special purpose  
revenue bonds for this purpose.

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



## **Hawaii Cattlemen's Council, Inc.**

P O Box 437199 Kamuela HI 96743

Phone (808) 885-5599 • Fax (808) 887-1607

e-mail: [HCattlemens@hawaii.rr.com](mailto:HCattlemens@hawaii.rr.com)

SENATE COMMITTEE ON WATER, LAND AND HOUSING  
And  
SENATE COMMITTEE ON JUDICIARY AND LABOR  
Tuesday March 20, 2012 12:30 pm Room 016

HB 2594 HD 2 PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12,  
OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS.

Chairs Dela Cruz and Hee, Vice Chairs Solomon and Shimabukuro and Members of the Committee:

My name is Alan Gottlieb, and I am a rancher and the Government Affairs Chair for the Hawaii Cattlemen's Council. The Hawaii Cattlemen's Council, Inc. (HCC) is the Statewide umbrella organization comprised of the five county level Cattlemen's Associations. Our 130+ member ranchers represent over 60,000 head of beef cows; more than 75% of all the beef cows in the State. Ranchers are the stewards of approximately 25% of the State's total land mass.

The Hawaii Cattlemen's Council **strongly supports HB 2594 HD2.**

After the tragedy at Kaloko, this legislature passed new laws to improve the safety of our State's Dams and Reservoirs. Late last year, the Board of Land & Natural Resources approved new regulations which in part requires dam and reservoir owners to do extensive engineering studies and requires significant upgrades to dams and reservoirs built in the past under best management practices (many over engineered by plantations) and requiring that they be brought up to current engineering standards. No one argues that public safety should be taken lightly, and we agree that protection of life and property be the first priority. While we might argue that many of these dams and reservoirs have met the safety "test of time", some regulators argue that the passage of time has made them unsafe. As an analogy, what would happen if we required all buildings in downtown Honolulu to be retrofitted to today's building standards to withstand a large earthquake, for the safety of the public. Of course that would be impractical and impossible, but this is what is being asked of our States Dams and Reservoirs. Furthermore the new rules and regs use a "one size fits all" mentality, imposing on dams that barely exceed the regulatory threshold the same requirements as for the largest dams in our State (in some cases over 250 times the size).

We do not believe that the intent of the Dam and Reservoir safety law is to put farmers and ranchers out of business or to encourage them to decommission existing water resources. We believe these new rules and fees would lead to the closure of many dams and reservoirs, the opposite of what we need in this State if we want to increase our agricultural self sufficiency and improve our food security.

Issuance of Special Purpose Revenue Bonds to assist dam and reservoir owners is one important step to help assure that they can afford to keep reservoirs open and water flowing to farmers and ranchers.

Thank you for giving me the opportunity to testify in favor of this very important issue.



822 Bishop Street  
Honolulu, Hawaii 96813  
P.O. Box 3440  
Honolulu, HI 96801-3440  
[www.alexanderbaldwin.com](http://www.alexanderbaldwin.com)  
Tel (808) 525-6611  
Fax (808) 525-6652

**HB 2594 HD2**

**PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII  
STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS**

**PAUL OSHIRO  
MANAGER – GOVERNMENT RELATIONS  
ALEXANDER & BALDWIN, INC.**

**MARCH 20, 2012**

Chair Dela Cruz, Chair Hee and Members of the Senate Committees on Water, Land & Housing and Judiciary & Labor:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) and Hawaiian Commercial & Sugar Company (a division of A&B) on HB 2594 HD2, "PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 12, OF THE HAWAII STATE CONSTITUTION TO ASSIST DAM AND RESERVOIR OWNERS." We support this bill.

Alexander & Baldwin and its agricultural company Hawaiian Commercial & Sugar Company (HC&S) have 30 regulated reservoirs on Maui which are in active use by HC&S. Because these dams and reservoirs are a vital part of our agricultural operations, they are operated, monitored, and maintained on an on-going basis. These facilities enable the storage of water so that HC&S can better weather periods of drought. These facilities also enable us to make optimum use of water resources—by capturing waters during heavy rainfall periods, less has to be used from surface water sources and wells during other times. They are absolutely integral to our ability to continue to keep tens of thousands of acres in agriculture in this state.

In addition to serving as a valuable water resource for Hawaii's agricultural industry, dams and reservoirs also provide several other significant benefits to the general public. Many of these facilities also provide drinking water for residential communities, renewable energy by way of hydropower, and flood control and drainage for public safety.

We understand that DLNR has overseen the implementation of Phase I investigative studies and inspections for all regulated dams and reservoirs in the State of Hawaii. As a result of these Phase I investigative studies and inspections, several additional dam and reservoir safety requirements, many with significant cost implications, may be levied upon owners of dams and reservoirs. These additional requirements include various geotechnical/stability studies, hydraulic/hydrology studies, upstream control valve studies, spillway improvements, and other miscellaneous construction items.

The additional costs required to meet dam and reservoir safety regulatory requirements may create an undue financial burden for dam and reservoir owners, the majority of whom are farmers or agricultural operations that rely on these facilities for their livelihood. Smaller farmers and agricultural operations who utilize water from dams owned by others may be negatively impacted should the dam owner decide to permanently breach their facilities because of the undue increase in operating and capital expenses prompted by regulatory expenses and requirements of DLNR's dam and reservoir safety program. Owners of multiple dams, will be particularly hard hit.

This bill proposes an amendment to the State Constitution to authorize the issuance of special purpose revenue bonds and to use the proceeds from the bonds to

assist dam and reservoir owners. We believe that this bill will greatly assist dam and reservoir owners as they grapple with financing the significant additional costs to upgrade their dams and reservoirs so that they can meet regulatory requirements. By providing dam owners with a financial incentive to improve their facilities, the likelihood that more of these facilities will be kept in continued operation, and fewer decommissioned due to the cost of complying with the new regulations, will be increased. We believe that with the assistance of these special purpose revenue bonds, dams and reservoirs can continue to serve as a valuable water resource for Hawaii's agricultural industry and its communities.

Based on the aforementioned, we respectfully request your favorable consideration on this bill. Thank you for the opportunity to testify.





LAND USE RESEARCH  
FOUNDATION OF HAWAII

1100 Alakea Street, 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813  
(808) 521-4717  
[www.lurf.org](http://www.lurf.org)

March 15, 2012

Senator Donovan M. Dela Cruz, Chair  
Senator Malama Solomon, Vice Chair  
Senate Committee on Water, Land, and Housing

Senator Clayton Hee, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

**Support of HB 2594, H.D. 2, Relating to Special Purpose Revenue Bonds; Constitutional Amendment; Dams and Reservoirs. (Proposes a constitutional amendment to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.)**

**Tuesday, March 20, 2012, 12:30 p.m., in Conference Room 016**

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **in support of HB 2594, H.D. 2, and to offer comments.**

**HB 2594, H.D. 2.** The purpose of this bill is to propose an amendment to article VII, section 12, of the Hawaii state constitution, to authorize the State to issue special purpose revenue bonds and use the proceeds from the bonds to assist dam and reservoir owners.

**LURF's Position.** LURF members include private property owners, farmers and ranchers who own, maintain, and utilize dams and reservoirs, and who consider such resources critical to conduct their agricultural operations and to sustain their businesses. These land owners and agricultural stakeholders believe HB 2594, H.D. 2 will greatly assist with costs which must be incurred to bring their facilities to current safety standards, including requirements of the dam and reservoir safety program administered by the DLNR, particularly new safety requirements for dams and reservoirs imposed by the program, as well as costs which must be incurred for maintenance and upgrade of structures which are presently considered untenable.

As this Committee may already be aware, the unsustainable costs cast upon land owners and agricultural stakeholders by the safety program are a serious concern, as the enactment of overly burdensome regulations relating to maintenance and operation of

Senate Committee on Water, Land, and Housing  
Senate Committee on Judiciary and Labor  
March 15, 2012  
Page 2

dams and reservoirs are proving to be potentially counterproductive to the long-term objective of preserving these facilities as valuable water resources.

As potential issues relating to public health, and food safety and security continue to be a significant concern of agricultural stakeholders, LURF and its members appreciate this measure being taken to assist dam and reservoir owners, and the acknowledgement of dams and reservoirs being vital water resources for the State, and the need for consistent maintenance and operation of the systems in a safe and feasible manner

For the reasons stated above, LURF is in **support of HB 2594, H.D. 2**, and respectfully urges your favorable consideration of this bill.