



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

IN REPLY REFER TO:

March 1, 2011

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

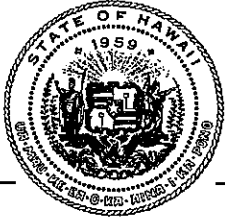
HOUSE BILL NO. 917

COMMITTEE ON JUDICIARY

The Department of Transportation (DOT) supports the intent of House Bill No. 917 to provide an exemption from county approval process for the Highways and Airports projects.

The DOT has always been willing to work collaboratively with the State Office of Planning and respective county agencies to streamline the permitting processes.

The Construction Task Force (2010) Recommendation No. 5 did not specifically give a broad exemption to the current Special Management Area process; it recommended that specific types of construction and development be identified that would qualify for a county exemption. The DOT is willing to work with the State Office of Planning and affected county agencies to identify such exemptions and effectuate those as soon as possible.



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

**NEIL ABERCROMBIE**  
GOVERNOR  
**RICHARD C. LIM**  
INTERIM DIRECTOR  
**JESSE K. SOUKI**  
INTERIM DIRECTOR  
OFFICE OF PLANNING

**OFFICE OF PLANNING**

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Statement of  
**JESSE K. SOUKI**  
Interim Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON JUDICIARY**  
Tuesday, March 1, 2011  
2:00 PM  
State Capitol, Conference Room 325

in consideration of  
**HB 917**  
**RELATING TO TRANSPORTATION.**

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the House Committee on Judiciary.

The Office of Planning administers Chapter 205A, Hawaii Revised Statutes (HRS), the Coastal Zone Management (CZM) law. HB 917 amends Sec. 205A-22, HRS, to exclude construction of airports and highways authorized by the state department of transportation from "development" defined in Sec. 205A-22, HRS, and consequently exempt these constructions from the requirements of special management area (SMA) permit.

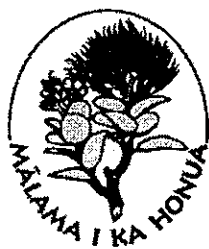
We oppose this bill for the following reasons:

- 1) The SMA permit was first established in 1975 with the enactment of Act 176, known as the Shoreline Protection Act. It was enacted to avoid permanent losses of valuable resources and the foreclosure of management options. The SMA permit is a management tool to assure that uses, activities, or operations on land or in or under water within a SMA are designed and carried out in

compliance with the CZM objectives and policies, and the SMA guidelines set forth in Chapter 205A, HRS. The proposed amendments conflict with the intent of Chapter 205A Part II SMAs, which was established by the legislature, and undermine the purposes of the SMA permitting system.

- 2) Whether any of uses, activities, or operations within a special management area (SMA) constitutes “development” should be determined by the existence of their potential impacts. The proposed exemptions specifically for the state department of transportation are beyond the category of excluded uses, activities, or operations for “development” defined in Sec. 205A-22, HRS. The exemptions ignore the principles and guidelines first set forth in Act 176-75 and carried on in Sec. 205A-26, HRS, and county SMA rules and ordinances. Construction of public facilities in a SMA, including airports and highways, should be subject to a SMA complete review in order to balance coastal protection and development needs, and balance local and state interests.
- 3) The proposed SMA permit exemptions will set a precedent for other agencies to ask for a similar exemption, and will set a negative example to individuals and businesses in compliance with the SMA permit requirements.

Thank you for the opportunity to offer these comments.



# Sierra Club Hawai'i Chapter

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

## HOUSE COMMITTEE ON JUDICIARY

March 1, 2011, 2:00 P.M.  
(Testimony is 2 pages long)

### TESTIMONY IN STRONG OPPOSITION TO HB 917

Aloha Chair Keith-Agaran and Members of the Committees:

The Hawai'i Chapter of the Sierra Club, with 8,000 dues-paying members and supporters, ***strongly opposes*** HB 917, which would allow the Department of Transportation to ignore county regulations in the construction or renovation of airports and highways. Such a measure could deny the public the opportunity to participate in the process and eliminates the oversight and analysis currently required in the Coastal Zone Management Act.

This measure is a long-standing goal for the Department of Transportation -- some form of this measure has been introduced for eleven years stemming out of litigation around the Kahului Airport expansion. In that case, DOT attempted to issue a series of "finding of no significant impacts" with the Kahului Airport until the environmental community successfully sued. One could question how any agency could plausibly contend that the construction or expansion of an airport would have no significant environmental impacts . . . but DOT did, and now is seeking authority to avoid these types of bothersome regulations in the future.

Because state and county agencies are typically more concerned with their mission than the environment, these agencies tend to marginalize environmental concerns and fail to objectively analyze all relevant factors. For this reason, this Legislature created a series of checks and balances (state and county approval) and public notification requirements. This measure proposes to eliminate this balance.

Without any county permitting requirements or Coastal Zone Management Act approvals, most opportunities for the public to meaningfully participate in DOT projects would be eliminated. This measure 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.

This measure also wrongly justifies the removal of environmental regulations by electing a “growth at all costs” mentality. This is a silly rationale. Do we really want to encourage the development of highways and airports without examining the particularized impacts on the neighborhood or the marine environment? What about the counties’ and public’s interest in connecting sewage lines, county roads, and meshing any state plan with the counties long-term plan?

The economic benefit of this measure -- if any -- is not worth the destruction of our democratic process and the resulting risks to the communities we call home.

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

1065 Ahua Street  
Honolulu, HI 96819  
Phone: 808-833-1681 FAX: 839-4167  
Email: [info@gcahawaii.org](mailto:info@gcahawaii.org)  
Website: [www.gcahawaii.org](http://www.gcahawaii.org)



# GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 10, 2011

TO: THE HONORABLE REPRESENTATIVE GILBERT S. C. KEITH-AGARAN, CHAIR  
AND MEMBERS OF THE COMMITTEE ON JUDICIARY

SUBJECT: H.B. 917, RELATING TO TRANSPORTATION.

NOTICE OF HEARING

DATE: Tuesday, March 01, 2011  
TIME: 2:00 PM  
PLACE: Conference Room 325

Dear Chair Keith-Agaran and Members of the Joint Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and eighty (580) general contractors, subcontractors, and construction related firms, **supports** the passage of H.B.917, Relating To Transportation.

This bill is the result of one of the recommendations of the Taskforce created by the legislature in SCR 132 in 2009.

The measure is designed to avoid the time and cost necessary to process county permitting requirement to develop state highway project. This measure will help to speed up the construction projects for revitalization and modernization of our vital transportation system.

The GCA **supports** the passage of H.B. 917 and recommends the joint committees pass this bill.

Thank you for the opportunity to testify on this bill.

March 1, 2011

The Honorable Representative Gilbert Keith-Agaran, Chair  
The Honorable Representative Karl Rhodes, Vice Chair  
Committee on Judiciary  
Hawai'i State Capitol  
Honolulu, HI 96813

RE: Testimony opposing HB917 Relating to Transportation

Chair Keith-Agaran, Vice Chair Rhodes and members of the committee.

The Outdoor Circle (TOC) strongly opposes exempting from county permitting requirements, Department of Transportation (DOT) projects for highways and airports.

In essence this proposal will cover the overwhelming majority of all DOT construction projects, save for harbors, which already are exempt from county permits. But the impacts potentially will be much greater for highway and airport projects because of enormous costs of building and maintaining hundred of miles of highways, the outrageously high costs of building and maintaining airports and the fact that most of these projects are located on or very near shorelines in our island state.

The proximity of these projects to shorelines means that the overwhelming majority require Shoreline Management Permits which are issued by the Counties. That is the intent of the U.S. Coastal Zone Management Act of 1972 and the Hawaii Coastal Zone Management Act of 1977—to provide opportunities for local control over coastal land use decisions. In Hawaii that intent is codified in the Shoreline Management Area (SMA) permit system which extends to counties the authority to make decisions about certain projects which have substantial impacts on the social, economic and environmental on local populations. That is perhaps more true in Hawaii than any other place in the United States.

It is clear that the intent of this legislation is to remove hurdles that might impede highway and airport projects. While that no doubt is attractive to the construction industry and the airlines these are the types of short cuts that can lead to unintended and irreversible consequences that will most impact the people who live in the counties where these projects are implemented. That's why there is a long standing, time tested system for giving the counties decision making authority in these matters.

In short, this proposal is anti-home rule and anti-local involvement. It removes one complete and important level of project review, not only as it relates to environmental considerations, but a multitude of social and economic factors that are best known and best assessed by the people who live where the projects are planned. Removing them from having authority in this process is an idea whose time is not now....and hopefully will never come.

Please don't allow this misguided, special interest legislation from moving forward.

Respectfully,

Bob Loy  
Director of Environmental Programs

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 27, 2011 8:30 AM  
**To:** JUDtestimony  
**Cc:** OmniGreen2020@yahoo.com  
**Subject:** Testimony for HB917 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB917

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Bill Akiona II  
Organization: OmniGreen Renewables  
Address:  
Phone:  
E-mail: [OmniGreen2020@yahoo.com](mailto:OmniGreen2020@yahoo.com)  
Submitted on: 2/27/2011

Comments:



**Testimony for HB917 on 3/1/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Monday, February 28, 2011 1:08 PM

**To:** JUDtestimony

**Cc:** ndavlantes@aol.com

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Testimony for JUD 3/1/2011 2:00:00 PM HB917

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Nancy Davlantes

Organization: Individual

Address:

Phone:

E-mail: ndavlantes@aol.com

Submitted on: 2/28/2011

**Comments:**

The exemption of many DOT projects from the Coastal Zone Management Act, for the sole purpose of increasing jobs in the local construction industry, would reduce opportunities for counties to exert local control over land use decisions, reduce opportunities for public involvement in the planning process, and reduce environmental oversight and the careful consideration of the impacts of these projects on local populations.

There is no reason to eliminate the current process in favor of a "growth at all costs" strategy, and is a short-sighted attempt to boose one industry at the expense of local populations and the environment.

Nancy Davlantes  
Kaneohe

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 27, 2011 7:13 PM  
**To:** JUDtestimony  
**Cc:** iliwai34@hawaii.rr.com  
**Subject:** Testimony for HB917 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB917

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Michael J. Duberstein  
Organization: Individual  
Address:  
Phone:  
E-mail: [iliwai34@hawaii.rr.com](mailto:iliwai34@hawaii.rr.com)  
Submitted on: 2/27/2011

**Comments:**

I cannot figure out why DOT is attempting to create new ways for developers to &quot;pave paradise, put up a parking lot&quot; at the same time that counties are still going through the tortuous planning process mandated in the last decade. We do not need more loopholes no matter how large or how small, or where they are located. Please send this bill down to defeat.

Mahalo and malama aina.

## **JUDtestimony**

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**From:** Michael Reed Gach [mrgach@att.net]  
**Sent:** Sunday, February 27, 2011 10:11 PM  
**To:** JUDtestimony  
**Subject:** Oppose HB 917

To the Committe on Judiciary:

I urge the committee to reject this growth at all costs bill. I believe that each and every project should be under the same guidelines over land use decisions. The requirements or the bar we set for protecting all forms of life on HI and our people should be the same. I think that making certain projects exempt is unfair. The bar needs to be set fairly in the planning process, not reducing the environmental oversight in certain projects. Thus, I urge you to oppose HB 917.

Mahalo for your consideration,

**Michael Gach**  
P.O. Box 1808  
Kihei, HI 96753  
[mrgach@att.net](mailto:mrgach@att.net)

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 27, 2011 9:17 AM  
**To:** JUDtestimony  
**Cc:** kidokimb@hawaii.edu  
**Subject:** Testimony for HB917 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB917

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Kim Kido  
Organization: Individual  
Address:  
Phone:  
E-mail: [kidokimb@hawaii.edu](mailto:kidokimb@hawaii.edu)  
Submitted on: 2/27/2011

Comments:  
MY TESTIMONY IS AS FOLLOWS:

I strongly oppose this measure. Counties should have a say in how their communities are transformed. The State should not get a free pass to circumvent them.

## JUDtestimony

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, February 27, 2011 8:44 AM  
**To:** JUDtestimony  
**Cc:** clk@quixnet.net  
**Subject:** Testimony for HB917 on 3/1/2011 2:00:00 PM

Testimony for JUD 3/1/2011 2:00:00 PM HB917

Conference room: 325  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Carolyn Knollo  
Organization: Individual  
Address:  
Phone:  
E-mail: [clk@quixnet.net](mailto:clk@quixnet.net)  
Submitted on: 2/27/2011

**Comments:**

This bill would be to exempt many Department of Transportation projects from the Coastal Zone Management Act, reducing opportunities for counties to exert local control over land use decisions, reducing opportunities for public involvement in the planning process, and reducing environmental oversight and the careful consideration of the impacts of these projects on local populations. I strongly oppose this bill as it would eliminate a time-tested process in favor of a "growth at all costs" mentality.

**HB 917**

patbak1@hawaiiantel.net [patbak1@hawaiiantel.net]

**Sent:** Monday, February 28, 2011 9:11 AM**To:** JUDtestimony

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I can appreciate the pressures on the Legislature to streamline procedures, eliminate duplication and the like in the name of greater efficiency, particularly in times of economic hardship, as at present. However, HB 917 appears to go too far too fast. County perspectives are a valuable part of the land management process, which is presumably why they are protected in the law as at present. The large uncertainties posed by climate change and energy costs argue for sound planning, guided by sustainability and limitation of urban sprawl. Please defeat this bill.

Byron W. baker  
1504 Kamehameiki Road  
Kula, HI 96790  
phone: 876-0283

**Testimony for HB917 on 3/1/2011 2:00:00 PM**

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

**Sent:** Monday, February 28, 2011 3:32 PM

**To:** JUDtestimony

**Cc:** amybrinker@mac.com

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Testimony for JUD 3/1/2011 2:00:00 PM HB917

Conference room: 325

Testifier position: oppose

Testifier will be present: No

Submitted by: Amy K. Brinker

Organization: Individual

Address:

Phone:

E-mail: amybrinker@mac.com

Submitted on: 2/28/2011

Comments: