

SB 2302

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P.O. Box 3378
HONOLULU, HAWAII 96801-3378

In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS,
AND MILITARY AFFAIRS

S.B. 2302, RELATING TO SOLID WASTE POLLUTION

Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health

February 2, 2012
3:30 p.m.

- 1 **Department's Position:** The Department of Health respectfully opposes this measure.
- 2 **Fiscal Implications:** Undetermined, since counties will need to develop procedures to receive and utilize
3 community giveback fees, and the state needs to implement added steps to deposit and transfer collections
4 from state to county general funds.
- 5 **Purpose and Justification:** The bill requires the department to assess a community give back fee in
6 addition to an administrative penalty on solid waste polluters. The community give back fee is an
7 unspecified dollar amount per penalty. The fee would be first deposited into the general fund, then
8 transferred to the county general fund and disbursed to nonprofit organizations located in the affected
9 community. The giveback fee would be utilized at the discretion of the nonprofit organization.
- 10 The department opposes this measure because it duplicates existing penalty policy. The current
11 solid waste penalty policy already includes a mechanism that allows respondents to conduct
12 supplemental environmental projects in lieu of, or in addition to, penalty payment. Supplemental
13 environmental projects are typically conducted in the affected community and are related to the

1 protection of public health and the environment. For example, as part of a 2006 solid waste enforcement
2 action associated with violations at Waimanalo Gulch Landfill in 2006, \$637,500 was collected and is
3 being distributed through the Department of Business and Economic Development to grantees to
4 conduct projects benefitting the Leeward community. In this instance, the amount collected for
5 supplemental projects exceeded the collected penalty that was deposited in the Environmental Response
6 Revolving Fund.

7 Aside from this enforcement action, we believe that the amount typically collected under this bill
8 will be minimal. For example, the average annual solid waste penalties collected over Fiscal Years 2007
9 to 2011 (five years), excluding the aforementioned Waimanalo Gulch case, was \$64,762. Assuming that
10 the community give back fee is equivalent to 20% of the assessed penalty, the average annual fee
11 collected would be about \$13,000. That amount would then be distributed to the affected counties.
12 Based on the locations of the associated violations during this time period, about 38% of the collected
13 penalties would be distributed to Maui, 2% to the Big Island and 60% percent to Oahu. Oahu's 60% of
14 the average fee would total to about \$7,800, of which \$300 would go to the Honolulu area, \$1,100 to the
15 Pearl City area, \$5,900 to the Campbell Industrial Park and the greater Kapolei area, and \$500 to the
16 Waianae area. We believe that the government time and resources necessary to collect, distribute, and
17 administer such a giveback fee would be greater than the value of penalty dollars distributed to
18 communities.

19 Thank you for the opportunity to testify on this measure.
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23
24

DEPARTMENT OF ENVIRONMENTAL SERVICES
CITY AND COUNTY OF HONOLULU

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707
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DEPUTY DIRECTOR

IN REPLY REFER TO:
WAS 12-24

February 1, 2012

The Honorable Mike Gabbard, Chair
and Members of the Committee on Energy
and Environment
The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Government Operations, and Military Affairs
State Senate
State Capitol
Honolulu, Hawaii 96813

Dear Chair Gabbard, Chair Espero, and Members:

Subject: Senate Bill 2302, Relating to Solid Waste Pollution

The City and County of Honolulu's Department of Environmental Services opposes Senate Bill (SB) 2302, Relating to Solid Waste Pollution.

This is yet another attempt to provide funding to communities located near a landfill. Without support, the bill inappropriately presumes in Section 1 that "communities in which are located landfills and other disposal sites, bear a disproportionately heavy burden in meeting community needs." Further, the bill proposes adding additional fines, as community giveback fees, to existing fines for violation of environmental health laws and that these additional fines would be given to non-profit groups in communities that are harmed.

Any determination of whether a community benefit package or payment should go to communities located near a landfill is properly within the authority of the counties. Therefore, the legislature should not attempt to infringe upon this authority. Further, the bill contains no language defining the alleged harm to the community that would trigger the additional penalty. Clearly not all violations of Chapter 46, Hawaii Revised Statutes, create harm to the community.

The Honorable Mike Gabbard, Chair
The Honorable Will Espero, Chair
February 1, 2012
Page 2

We urge the committees not to pass SB 2302 and to appropriately leave determination of need for community benefits to the appropriate authority, the City and County of Honolulu, and the other counties.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timothy E. Steinberger', with a large, sweeping flourish extending to the left.

Timothy E. Steinberger, P.E.
Director

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

SENATE COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND
MILITARY AFFAIRS

ATTN: CHAIRS MIKE GABBARD AND WILL ESPERO
Testimony Providing Comments on SB2302, RELATING TO SOLID WASTE POLLUTION
February 2, 2012, 3:30 p.m.
Conference Room 224

Aloha,

While in general support of the intent of this bill, I respectfully provide for consideration, a comment regarding the management of funds collected as either a community giveback or penalty assessed as a community giveback.

Within § 46, page 1 line 17, page 1 line 18, this bill directs the county to distribute the moneys to one or more nonprofit organizations located in the affected community. While commendable, I would argue for a more expansive distribution to a nonprofit located in the affected county. There are very few nonprofit organizations uniquely set-up to distribute funds to community groups, whether nonprofit or not, within each county much less each community within the State. I believe that giving an alternative, perhaps a preference to a community nonprofit but allowing for one with a broader scope might be more desirable and efficient.

Case in point, the Wai`anae/Kapolei community receives a community giveback from HECO (\$1M total, - \$100,000 per year for 10 years). The community group that negotiated this community giveback has worked with the Hawai`i Community Foundation (HCF) to administer grantmaking on a yearly schedule. HCF provides the notice for applicants to apply for moneys, reviews the applications for completeness, and provides guidance to a local group made up of individuals from the 96792 and 96707 area code areas for their consideration to make final recommendations to the HCF board for final determination of which applicants receive funding and the amount of funding awarded. In this way, the HCF provides an oversight and management expertise to assure the recipients are selected in as fair a manner as possible with respect to the intent of the funding, i.e. to promote environmental education, forest restoration, watershed management, etc. primarily directed to youth within the communities and to attempt to guide the use of funds within the communities. While there is a fee associated with this management, it has been the group's belief that this small fee has provided us with a great service to manage this fund.

I believe that this minor change will provide a more robust and better managed fund as intended by the introducers of the bill.

Mahalo,

Cynthia K.L. Rezentes
Wai`anae resident

Testimony on SB 2302

Aloha,

My name is Lily Cabinatan and I live on the Waianae Coast. We have many needs here on our Leeward coast. We would appreciate that you help our community by giving 1 million dollars or more back to our community since we are housing toxic waste for the entire state of Hawaii. The landfill is detrimental to the health and well being of our community.

The landfill generates billions of dollars of income at our expense. We in this community are being poisoned by toxins and free radicals daily due to this landfill. Giving back some of this income will provide our community with much needed services to offset some of this damage done to us.

I urge you to strongly make this bill happen.

Thank you for your time and effort,
Lily Cabinatan
808-372-5952
www.lilycabinatan.nsedreams.com
www.nsinsider.com
Cabinatad001@hawaii.rr.com

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, January 31, 2012 8:57 PM
To: PGM Testimony
Cc: ~~donhutton@hotmail.com~~
Subject: Testimony for SB2302 on 2/2/2012 3:30:00 PM
Attachments: SB2302 is excellent..odt

Testimony for PGM/ENE 2/2/2012 3:30:00 PM SB2302

Conference room: 224
Testifier position: Support
Testifier will be present: No
Submitted by: Don Hutton
Organization: Individual
E-mail: ~~donhutton@hotmail.com~~
Submitted on: 1/31/2012

Comments:

SB2302 is excellent.

February 2, 2012

From: Councilmember Tom Berg

To: Senator Will Espero & Senator Mike Gabbard

Testimony In Support of Senate Bill 2302

Aloha Chair Espero, Chair Gabbard and all other committee members,

As the Honolulu City Council District 1 Councilmember I have heard and seen for myself the concerns that plague the residence in my district. Several waste facilities exist in district one; Waimanalo Gulch Saintry Landfill, the only municipal landfill on the island of Oahu, and PVT Landfill Company, the only licensed landfill that can accept construction & demolition (C&D) debris. We also house smaller refuse centers, a waste water treatment plant, power plant, garbage burning facility, and a number of waste disposal sites in Campbell Industrial Park.

The rail doesn 't serve directly the residence of the Waianae Coast but they are to get all of the construction and demolition debris associatd with it. This is not pono. The rules for the Honolulu Authority for Rapid Transportation are purported to prohibit any use of the rail surcharge to compensate the nearby community of Nanakuli and thus, what we have here is an exhibit of another example of an environmental injustice taking place.

I ask you to look closely at the residents who have to live, work and play around these dump sites. The host communities that have to coexist with these dumps should receive some kind of compensation for the inundation of environmental and health hazards that they face because of the landfills.

Ask yourselves this, would it be fair for us on Oahu to ship all of the demolition waste, ash, automobile shredded residue, animal carcasses and sludge to a neighbor island and not compensate, nor pay for, the housing of such waste somewhere else off island? Of course this would not be fair so why should West Oahu take all the garbage, be the armpit, serve as the ashtray for the rest of the island to prosper in a dump free environment without compensation?

Thank you for allowing me to testify on this matter. I strongly urge you to support Senate Bill 2302.

Councilmember Tom Berg
Honolulu City Council, District 1
Office: (808) 768-5001
Email: tberg@honolulu.gov

From: mailinglist@capitol.hawaii.gov
[mailto:mailinglist@capitol.hawaii.gov]
Sent: Thursday, February 02, 2012 1:21 AM
To: PGM Testimony
Cc: dkapua@gmail.com
Subject: Testimony for SB2302 on 2/2/2012 3:30:00 PM

Testimony for PGM/ENE 2/2/2012 3:30:00 PM SB2302

Conference room: 224
Testifier position: Support
Testifier will be present: Yes
Submitted by: Kapua Keliikoa-Kamai
Organization: Individual
E-mail: dkapua@gmail.com
Submitted on: 2/2/2012

Comments: