

SB 2358

RELATING TO CAPITAL IMPROVEMENT PROJECTS

Description:

Authorizes the state director of finance to waive county permitting requirements for pending state CIP projects for which funds were released in fiscal years 2010-2012 and 2012-2014.

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
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**Testimony of
WILLIAM J. AILA, JR.
Chairperson**

**Before the Senate Committee on
PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND MILITARY AFFAIRS**

**Thursday, January 26, 2012
2:50 P.M.
State Capitol, Conference Room 224**

**In consideration of
SENATE BILL 2358
RELATING TO CAPITAL IMPROVEMENT PROJECTS**

Senate Bill 2358 exempts all state Capital Improvement Projects (CIP) for which funds are released in fiscal years 2012-2014 from county permitting requirements and authorizes the State Director of Finance to waive county permitting requirements for pending state CIP for which funds were released in fiscal years 2010-2012. The Department of Land and Natural Resources (Department) supports the intent of this measure which will expedite the implementation of construction projects to repair our deteriorated facilities and create jobs to improve the economy. The Department however defers to the Department of Budget and Finance regarding its authority to waive county permitting requirements of CIP for which funds were released in fiscal years 2010-2012.

The Department notes that projects should be implemented with proper measures that protect and preserve our natural and cultural resources and the environment. Projects should also be certified by engineering design professionals to ensure compliance with applicable building codes and other county regulations.

Thank you for the opportunity to comment.

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI
FIRST DEPUTY

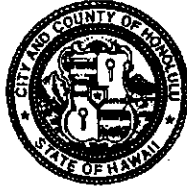
WILLIAM M. TAM
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
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LAND
STATE PARKS

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR



DAVID K. TANOUE
DIRECTOR

JIRO A. SUMADA
DEPUTY DIRECTOR

January 26, 2012

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 Espero and Committee Members:

**Subject: Senate Bill No. 2358
Relating to Capital Improvement Projects**

The Department of Planning and Permitting (DPP) **supports** Senate Bill No. 2358 which would allow certain declared State Capital Improvement Projects (CIP) to be exempt from county permitting requirements, provided the exemptions apply only to the time periods specified in the bill, and the projects continue to comply with City and County standards.

Like most other agencies, our department is challenged by tight resources and a constant public demand for prompt service. By dropping State CIP projects from our review, we can use our resources to concentrate on private sector projects and City CIP.

Please be informed that under this bill the City would not review construction drawings for code compliance, issue building or other construction permits, or perform onsite inspections during construction. We would also not check plans for compliance with drainage requirements, check for sewer capacity, assess shoreline impacts and assure compliance with federal mandates, such as flood hazard mitigation. Once construction is complete, we could not issue certificates of occupancy, since we would not be able to attest to code compliance. If subdivision action is involved, it would place the lots under questionable legal status, especially for subsequent development or sale

You may be interested to know that our building code already makes obtaining a building permit for State CIP optional. In addition, in response to the recent federal economic stimulus initiative, we developed a self-certification process for State CIP in 2009, but to date, the program has not been used. We understand that this is due to liability concerns on the part of the State.

The Honorable Will Espero, Chair
and Members of the Committee on Public Safety,
Government Operations and Military Affairs
State Senate
Re: Senate Bill No. 2358
January 26, 2012
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Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David K. Tanoue', with a long horizontal flourish extending to the right.

David K. Tanoue, Director
Department of Planning and Permitting

DKT: jmf

sb2358-CIP-ks.doc



Sierra Club Hawai'i Chapter

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

January 26, 2012, 2:50 P.M.
(*Testimony is 1 page long*)

TESTIMONY IN OPPOSITION TO SB 2358 WITH PROPOSED AMENDMENTS

Aloha Chair Espero and Committee Members -

The Sierra Club, Hawai'i Chapter, with 9,000 dues-paying members and supporters, strongly *opposes* SB 2358. This bill creates a waiver of county permits for capitol improvement projects funded in 2010 through 2014.

The county permitting process protects the public's interest in access, traffic, appropriate infrastructure, health and safety, and community planning. Building codes saves lives during earthquakes and fires. They also ensure more energy and water efficient projects. Zoning regulations ensure community plans are respected, and that traffic and infrastructure impacts are mitigated. Coastal permits ensure community access to beaches and that development projects do not destroy fragile coral reefs or fishing areas.

Many state agencies engage in a development project solely as a result of the county permitting process. The Department of Health, for example, is typically notified when an applicant applies for a county permit. Without this notification, DOH could not require the project follows the necessary health requirements.

While the regulatory process can always be improved, simply waiving government projects is a "throw the baby out with the bathwater" type of move. There are better ways to improve the system while still protecting the public's interests.

To the extent this bill moves forward, it could be improved by limiting the waiver to ministerial permits where (1) the permit application has been filed, (2) there has been an unreasonable delay, and (3) the State Director of Finance evaluates and determines in writing that the project comports with all relevant requirements.

Mahalo for the opportunity to submit testimony.

TO: Chair Espero, Vice-Chair Kidani, and Members of the Committee on Public Safety, Government Operations, and Military Affairs
RE: SB 2358

I offer these comments in OPPOSITION to SB 2358:

This measure is impermissibly vague and contravenes well-established separation of powers. An assertion that state CIPs are a "potential" means to promote development is not a valid or reasonable basis on which to eviscerate well-established county permitting processes. Such an attempt to circumvent county permitting is likely to have the consequence of decreasing employment for those tasked with insuring that all building and construction complies with duly enacted County permitting and regulations.

§ 46-4, HRS which identifies the powers of the Counties states, "The powers granted herein shall be liberally construed in favor of the county exercising them, and in such a manner as to promote the orderly development of each county or city and county in accordance with a long-range, comprehensive general plan to ensure the greatest benefit for the State as a whole."

This measure as currently written neither identifies potential CIP projects that may be exempted, nor does it provide a basis upon which the state's Finance Director should be permitted wholesale "waiver" powers, and it provides for no consultation with County governments.

This measure states that all projects exempted under this section "shall adhere to the standards required by the applicable county permits" but does not identify "according to whom" nor does it identify a remedy for a failure to comply with the "required" standards.

This measure should be deferred.

Sally Kaye

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