



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

March 29, 2012

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

**S.B. 2876, SD2, HD2
RELATING TO THE COMMERCIAL HARBORS**

HOUSE COMMITTEE ON FINANCE

The Department of Transportation (DOT) supports this administration bill to amend Chapter 266 to clarify that persons cited for non-criminal violations may appeal the citation and penalties pursuant to administrative procedures and not directly to District Court. Current procedures to enforce and collect penalties for traffic violations or criminal matters remain unchanged and appearances to answer these violations remain at the District Court.

In developing the administrative rules to implement Act 16, 2009 SLH, for the Director to regulate "safety and security requirements" and "other related activities", the DOT believes that §266-24.1, HRS should be amended to clarify that a purported violator may contest a safety and security violation at an administrative hearing and not answer the charge before the District Court.

The HD2 committee report stated that DOT submitted draft amendments to the bill to adopt an administrative civil procedure similar to those the Department of Land and Natural Resources under Chapter 199D, Hawaii Revised Statutes. The Committee on Judiciary requested that the Committee on Finance consider the DOT's proposal at its hearing.

In simplifying the DOT proposed amendments, the Attorney General (AG) requested the DOT to amend the bill by adopting an administrative civil procedure similar to

Department of Land and Natural Resources Chapter 199D, Civil Natural Resource Violations Act. The AG amendment adds a new section to Chapter 266 titled "266- State Harbors civil violations system authorization." The new civil procedure distinguishes civil matters from the existing Section 266-24.1 which is a criminal enforcement statute; Section 266-24.1 would remain unchanged thus simplify the understanding of the bill. The AG also requested the DOT to adopt a new section modeled after Section 195-8, titled "§266- General administrative penalties."

The DOT reviewed the AG's proposed amendments and agree that the provisions of the DLNR chapters would simplify its proposed amendments to Chapter 266. Attached is a draft of the bill incorporating the proposed AG amendments.

The proposal's intent remains the same which is to de-criminalize certain violations, and for the reasons stated above, the DOT requests that the committee adopt the draft revisions in passing out this bill. We further request that the bill's effective date be amended to upon its approval.

Thank you for the opportunity to provide testimony.

