

SB 729

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



LORETTA J. FUDDY, A.C.S.W., M.P.H.
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In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
SB729, RELATING TO ENVIRONMENTAL PROTECTION

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

February 3, 2011

- 1 **Department's Position:** The Office of Environmental Quality Control supports SB729.
- 2 **Fiscal Implications:** The proposed reduction of Environmental Council members from 15 to nine is
- 3 insignificant with respect to budget savings. The other proposed amendments will have no fiscal effects.
- 4 **Purpose and Justification:** SB729 amends Chapter 341, Hawaii Revised Statutes by proposing these
- 5 changes: a) reduce the number of Environmental Council members from fifteen to nine; b) requires the
- 6 OEQC director to submit a report and legislature; c) specifies when OEQC director may vote in Council
- 7 meetings; d) requires the OEQC director to consult with the Council on legislative bills and a wide range
- 8 of matters from training workshops, review of environmental documents, to a guidebook, etc.; e)
- 9 requires the Office of Environmental Quality Control to be responsible with rule-making; and f)
- 10 designates the Environmental Council to advise the governor on all matters relating to environmental
- 11 quality.
- 12 The proposed amendments are primarily house-keeping measures that clarify the functions of the
- 13 OEQC director and the Environmental Council.
- 14 Thank you for the opportunity to testify.

February 3, 2011

The Honorable Mike Gabbard, Chair
The Honorable Kalani English, Vice Chair
Senate Committee on Energy and Environment
Hawai'i State Capitol
Honolulu, HI 96813

RE: Senate Bill 729 Relating to Environmental Protection

Aloha Chair Gabbard, Vice Chair English and Members:

I am Mary Steiner, Chair of the Environmental Council (EC). Rumors notwithstanding, the EC is alive and almost well. We have withstood many challenges over the last few years which required us to stop meeting for some time. However, effective last October the Council has been meeting regularly, reviewing proposed agency exemption lists, producing minutes and generally getting down to the business required by statute. In fact, I believe our members feel that many of the obstacles we faced are beginning to disappear.

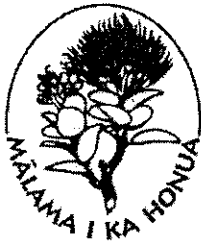
Since the Council meets monthly we did not have enough time to review the proposals in SB 729. However we anticipated that a bill would be submitted incorporating many of the recommendations of the UH Study and focused our attention on last year's proposed SB 2818 SD2 proposed HD 3. The minutes of our December 15, 2010 include a motion to "keep the rule-making function under the Environmental Council rather than under the director of OEQC as proposed in the bill." The minutes continue, "The position of the Environmental Council will be to maintain responsibility for rule-making..." This motion was approved unanimously.

At our January 15, 2011 meeting we discussed the number of members that should be on the Council. Although those minutes are not available yet, at that meeting we took a straw vote. We had three members who voted for the Council to have 9 members (as in SB 729), three members voted to maintain the membership at 15 members (as in the current statute) and one member voted in favor of a 12 member Council. As chair, I broke the tie and voted for a larger council. There being strong opinions on all sides of this discussion we decided to move on with other business.

I am sure that all of the Environmental Council members would agree that we are pleased to be meeting again and are committed to a process that benefits the entire community and all of its players.

Thank you for hearing my testimony.

Mary Steiner
Chair, Environmental Council



Sierra Club Hawai'i Chapter

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SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

February 3, 2011, 3:30 P.M.
(Testimony is 1 page long)

TESTIMONY IN SUPPORT OF SB 729

Chair Gabbard and members of the Committee:

The Sierra Club, Hawaii Chapter, with 8000 dues paying members and supporters statewide, *supports* SB 729. This measure implements some of the recommendations to clarify and strengthen Chapter 341 from the Environmental Review Working Group.

Last year, this Committee assembled the Environmental Review Working Group, which brought together a wide range of stakeholders to evaluate and recommend approaches to improve Hawai'i's environmental review process. Despite the diversity of viewpoints -- representing business, agencies, and environmental nonprofits -- there was unanimous agreement that the Office of Environmental Quality Control needed basic reforms and funding to adequately function.

The proposal presented before you is the work of several weeks of discussions and compromise. While we believe it may be better to continue to keep the rule making authority solely in the Environmental Council's hands, we're willing to accept the recommendation of the broader group.

We respectfully ask this Committee to move this bill forward. Mahalo for the opportunity to testify.

February 3, 2008

The Honorable Senator Mike Gabbard, Chair
Senate Committee on Energy and the Environment
Hawai'i State Capitol
Honolulu, HI 96813

RE: Testimony supporting SB 729 Relating to Environmental Protection

Chair Gabbard members of the committee.

The Outdoor Circle strongly believes that a well functioning Environmental Council that represents a broad cross section of the community is essential to maintaining the balance and integrity needed to protect Hawaii's fragile environment. And while we support much of SB729 we have a few suggestions that we believe will improve the legislation and help the EC perform its duties.

In the statement of findings and purpose we believe that the Office of Environmental Quality and the Environmental Council can only function as envisioned if it is adequately funded, properly staffed and appropriately supported by the Department of Health. This has not been the case in the recent past. In fact, quite the opposite is true.

For example, one year ago the EC was unable to meet, with little to no support by the administration and the Department of Health. Now it appears that OEQC and the EC have turned the corner and are once again doing the peoples' work as prescribed by law. But the entire ship is still sailing in troubled waters and at risk of sinking unless positive changes continue at virtually all levels of the operation. SB729 can be helpful in this regard—especially if amended.

Regarding the number of members on the council, while reducing the number might seem like streamlining, it could easily result in keeping important sectors of our state from having a voice. We believe retaining 15 members will help ensure representation that is more inclusive of groups that have an important stake in the issues.

SB729 proposes that the "Office" in consultation with the EC shall adopt rules. We believe the Council should adopt rules in consultation with the Office.

We strongly support an effective information technology system at the OEQC/EC as it will facilitate public participation in the environmental review process. We believe such a system would be enhanced by including a data base of agency exemptions.

Finally, we support the idea of combining the annual report with that of the OEQC director to save money and avoid duplication of efforts and information.

Respectfully,

Bob Loy
Director of Environmental Programs

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Hearing on SB729
Senate Committee on Energy and Environment
Hearing: Feb. 3, 2011 3:30 pm
Conference Room 225

Dear Chair Gabbard, Vice-Chair English, and Members of the Committee:

I write in **SUPPORT of SB729**, which seeks to strengthen the governance system for Hawaii's environmental review process under H.R.S. Chapter 341.

I served as a co-principal investigator of the University of Hawaii (UH) research team that conducted a two-year study of Hawaii's environmental review system at the request of the State Legislature (Act 1, 2008). The UH study team submitted its *Final Report on Hawaii's Environmental Review System*¹ to the Legislature in October 2010. The Report included specific legislative recommendations to amend Chapters 341 and 343 based on the UH study, as modified during the 2010 Session by the collaboration of the diverse twelve-member "SB2818 Working Group," convened by ENE Chair Senator Gabbard.

The UH study and the Working Group took a holistic view of numerous areas of concern about the current environmental review system and proposed comprehensive inter-connected amendments, which the Working Group (after six weeks of intensive facilitated meetings) separated into two proposed draft bills: one to amend Chapter 341 (to strengthen OEQC and the Environmental Council) and one to amend Chapter 343 (omnibus amendments).²

In my view, of the cacophony of "environmental review" bills submitted this session, the only two bills at this time that are urgently needed and reflect the balanced findings of the UH study and the strong support of the Working Group relate to revising only Chapter 341: SB729 (strengthening OEQC and the Environmental Council) and SB699 (creating a fee-based special fund for modernizing OEQC). Both bills should be supported by this Committee.

The Legislature should pass SB729 and SB699 to address the long-standing problems caused by the prior Administration's lack of support for OEQC and the Council, and the inadequate budget that has undermined the vital functions of these two bodies, together preventing Hawaii from having a robust and modern environmental review system.

Thank you.

Emailed to: ENEstestimony@capitol.hawaii.gov

¹ A copy of the report and background documents is available at: <http://hawaiieisstudy.blogspot.com/>

² The Working Group's proposed bills, which had strong but not complete consensus, are included in the Final Report as Appendices 10 and 11. Due to the lateness of the session, neither proposed bill was formally considered by EEP or ENE.