



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

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Statement of  
**JESSE K. SOUKI**  
Director, Office of Planning  
Department of Business, Economic Development, and Tourism  
before the  
**HOUSE COMMITTEE ON WATER, LAND AND OCEAN RESOURCES  
AND  
HOUSE COMMITTEE ON ENERGY AND ENVIRONMENTAL PROTECTION**  
Wednesday, March 21, 2012  
11:15 AM  
State Capitol, Conference Room 325  
  
in consideration of  
**SB 755 SD2 HD2 PROPOSED  
RELATING TO ECONOMIC DEVELOPMENT.**

Chairs Chang and Coffman, Vice Chairs Har and Kawakami, and Members of the House Committees on Water, Land and Ocean Resources, and Energy and Environmental Protection.

The Office of Planning (OP) strongly opposes SB 755 SD2 HD2 Proposed. Among other things, this omnibus bill makes OP responsible for the processing of special management area (SMA) permit applications for all state projects and shoreline setback variance applications for all state structures and activities. For the reasons discussed below, this would set OP up for failure, risk federal funding, detract from the effectiveness of the CZM Program to plan for and manage the sustainable use of Hawaii's coastal resources, and raise the specter of liability for OP and the state.

OP administers Hawaii Revised Statutes (HRS) chapter 205A, Hawaii's Coastal Zone Management (CZM) law, which implements the CZM Act passed by the U.S. Congress in 1972. The SMA permitting system is part of the federal and state approved Hawaii CZM

Program. The SMA, a subset of the larger coastal zone, generally extends inland from the shoreline to the nearest highway. This is the most sensitive area of the coastal zone, within which the legislature determined that special controls on developments were needed to (1) avoid permanent losses of valuable resources and the foreclosure of management options, (2) ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided, and (3) preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii. See HRS §205A-21. Within this narrow band around the coast, proposed "development" is required to obtain an SMA permit from the respective county within which it is located.

**First, OP is working with state agencies to develop a streamlined process that maintains consistency with the federal and state approved CZM Program.** In our preliminary discussions, we have had positive feedback from the state Department of Transportation and the Department of Land and Natural Resources. However, we still need to formalize the process, coordinate with other affected state agencies, and confer with the National Oceanic and Atmospheric Administration (the federal agency which funds the state's CZM Program). The Administration will have a proposed bill to address these issues in the next legislative session. The process we are discussing is conceptual at this point, but it will address the concerns outlined below and may not require additional funding or personnel.

In the interim, OP supports certain stop-gap bills that exempt certain state projects from SMA permitting, because those bills include a sunset date, does not change HRS chapter 205A, and provides that the affected agencies will consult with the CZM Program on consistency.

**Second, OP does not have the infrastructure, staff, or finances to carry out SMA permitting activities currently carried out by the counties.** The SMA permit process is part of the federal and state approved Hawaii CZM Program. When the state developed the SMA permit system, it was determined at that time that the counties would be responsible for issuing SMA permits. Over time, the counties have established regulatory systems for

assessing, reviewing, holding public hearings and contested cases, and making final determinations on SMA permits and shoreline setback provisions. These evaluations require dedicated staff, preferably with an expertise in ocean and coastal resource planning. The budget and staff of the county planning offices dwarf OP's. Among other things, OP simply does not have the budget, staff, or other infrastructure (such as a planning commission to hold hearings) that the county planning departments have. In addition, OP does not have the funds to hold public hearings in each of the counties.

**Third, OP is not a permitting office.** The intent of the Hawaii CZM Program is a networked concept—county, state, and federal agencies have an obligation to implement the CZM Act with OP oversight through its CZM Program. The CZM Program provides administration, support, and guidance to the network as the primary recipient of federal CZM Act funds. This allows the CZM Program to focus on the big picture as it relates to coastal zone and ocean planning and policy. For example, the CZM Program works with various University of Hawaii, public, and county, state, and federal agency stakeholders in the following activities:

- Developing and implementing the Hawaii Ocean Resources Management Plan;
- Implementing the President's National Ocean Policy;
- Implementing the Coastal and Nonpoint Source Pollution Control Program;
- Addressing beach access issues from a statewide perspective;
- Providing guidance and tools for coastal management that balances economic, cultural, and environmental impacts; and
- Addressing the impacts from climate change, primarily in the area of sea level rise.

All of these projects and programs leverage limited general funds to obtain federal grant monies to support these endeavors, which ensure that coastal resources (e.g., beaches, reefs, fish, public access, etc.) are available to future generations.

**Fourth, OP has the following additional comments for the Committees' consideration.** The SMA permitting process was developed over the course of several

public hearings, legislative sessions, and negotiations between county, state, and federal agencies in the 1970s. Rewriting the process in one session raises the specter of liability for OP and the state. In particular, consider the following:

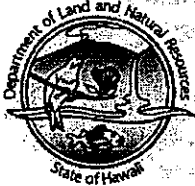
1. HRS chapter 91, Hawaii Administrative Procedure Act (HAPA), provides due process provisions that are predictable and accepted by stakeholders. The legislature may exempt any process from HRS chapter 91 through legislation. However, there is also an overriding constitutional obligation to provide due process. HRS chapter 91 is a tried and true method by which due process can be provided and any deviation involves risk. These procedures permit agencies to develop administrative policy promptly and to honor the due process rights of affected parties.
2. Standing and vested interests. People other than the applicant may also have interests in the permit, for example, adjacent property owners. Any action taken in which a person has legal rights is entitled by law to have a determination on those rights: HRS chapter 205A currently provides that process through HAPA.
3. Public Hearing. Although a public hearing is not mandatory under state law (the CZM Act requires public notice and comment of some kind) it is provided for under HRS chapter 91. In addition, a hearing is customary, if not required, in most all discretionary approvals. It is prudent to always provide for public hearings, and then issue a decision.
4. Adopting rules under HAPA reduces risk to the state. As a general proposition, agencies must pass rules to implement statutes. OP may need to make rule changes to account for this new process, and new rules can take some time. As stated in the 1961 Hawaii House Journal — Standing Committee Reports, Standing Committee Report No. 8, HAPA was adopted to "provide a uniform administrative procedure for all state and county boards, commissions, departments or offices which would encompass the procedure of rule making and the adjudication of contested cases." Also, consider that the Hawaii Supreme Court has generally applied a very liberal standard to environmental standing,

and the Hawaii State Constitution has a number of provisions related to the use and management of the state's natural resources and the environment. Although these provisions might not be self-executing, it is always risky to predict the outcome of a Hawaii Supreme Court decision. Removing HAPA, as in this proposed bill, requires the trial courts to fact find without the benefit of an administrative record.

5. Judicial limitations. The state cannot avoid lawsuits for violations of federal law, such as lawsuits for violation of the due process clause of the U.S. Constitution. The state also cannot avoid lawsuits asking for injunctive relief for violations of the state constitution.
6. Internal inconsistency within HRS chapter 205A. The bill limits judicial challenges, but that language may be inconsistent with HRS §205A-6, which allows "any person or agency may commence a civil action" for failure to comply with HRS chapter 205A.
7. Issue of Germaneness. Article III, section 14 of the Hawaii Constitution provides as follows, "Each law shall embrace but one subject, which shall be expressed in its title."

Thank you for the opportunity to comment on this bill.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



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

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**Testimony of  
WILLIAM J. AILA, JR.  
Chairperson**

**Before the House Committees on  
WATER, LAND & OCEAN RESOURCES  
and  
ENERGY & ENVIRONMENTAL PROTECTION**

**Wednesday, March 21, 2012  
11:15 A.M.  
State Capitol, Conference Room 325**

**In consideration of  
SENATE BILL 755, SENATE DRAFT 2, HOUSE DRAFT 1, PROPOSED HOUSE DRAFT 2  
RELATING TO ECONOMIC DEVELOPMENT**

Senate Bill 755; Senate Draft 2, House Draft 1, Proposed House Draft 2 proposes: (1) PART II - To temporarily make the Office of Planning (OP) responsible for the issuance of special management area permits and shoreline setback variances for state projects; (2) PART III - To temporarily exempt airport structures and improvements from the special management area (SMA) permit and shoreline setback variance (SSV) requirements when the structures and improvements are necessary to comply with FAA regulations; (3) PART IV - To temporarily authorize the Department of Land and Natural Resources and Department of Transportation, with the approval of the Governor, to exempt department projects from the special management area permit and shoreline setback variance requirements; (4) PART V - To exempt all work involving submerged lands used for state commercial harbor purposes from any permit and site plan review requirements for lands in the conservation district; and (5) PART VI - To temporarily authorize a more streamlined process for exempting state and county projects from the environmental review process of Chapter 343, Hawaii Revised Statutes (HRS), and reduce the deadline for challenging the lack of an environmental assessment for a state or county project. The Department of Land and Natural Resources (Department) supports the intent of PART IV of this measure which would temporarily exempt state projects from the requirements of SMA and SSV to expedite the implementation of state projects to improve or repair our deteriorated facilities and create jobs to improve the economy.

Although this bill proposes to allow the Department a temporary exemption from requirements of the SMA SSV under Chapter 205A, HRS, the measure also contains conditions that the Department believes are reasonable when attempting to balance the need to revitalize the

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CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

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WILLIAM M. TAM  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

economy while ensuring the protection of the environment, coastal resources, and public access. The Department supports the conditions proposed in this measure, which are as follows:

1. The measure requires state projects to comply with Chapter 343, HRS.
2. Exemption applies only to "state projects", which essentially limits the work to within facilities and/or parcels under the Department's jurisdiction (i.e. parks, harbors, trails, etc.) and work that is consistent with the existing use within those facilities and/or parcels.
3. The measure provides accountability with the Governor through exemptions recommended by the Board of Land and Natural Resources or the Chairperson.
4. The measure requires the Department to consult with both OP and the Office of Conservation and Coastal Lands (OCCL) for state projects deemed exempt. OCCL is charged with regulating activity in conservation districts and along the shoreline and must review projects against eight criteria as identified under Subchapter 4, §13-5-30(c), Hawaii Administrative Rules. The eight criteria are attached as part of this testimony as Exhibit 1 and include addressing consistency with Chapter 205A, HRS, adverse impacts to natural resources, and compatibility with surrounding land uses. OCCL has the in-house expertise to perform these consistency evaluations.
5. The measure has a sunset date of June 1, 2015, which would allow sufficient time for the economy to recover and other changes to Chapter 205A, HRS (proposed under this same measure) to be fully implemented.

The Department also notes that it is in the early stages of discussion with OP to develop a streamlined process that would expedite the implementation of State Projects while maintaining consistency with the federal and state approved Coastal Zone Management Program. As this process develops over the next few years, the Department will continue to work with OP to effectuate a set of procedures that are the most efficient without compromising the intent of the Coastal Zone Management Law.

Since most state projects span a period of time to complete the planning, design and construction phases, the Department requests a clarification regarding the word "proceedings" as used in PART VII (SECTION 42) of this proposed measure. If the intent is to allow projects that are in progress prior to the repeal date of July 1, 2015 to continue to be exempt, we recommend including the Governor's approval of projects' exemption as a "proceeding", and added to SECTION 42 of this proposed measure.

Thank you for the opportunity to comment.

G-2 LAND USES NOT OTHERWISE IDENTIFIED

- (D-1) Land uses not otherwise identified in section 13-5-22, 13-5-23, or 13-5-24, which are consistent with the objectives of the general subzone. [Eff 12/12/94; am and comp DEC - 5 2011 ] (Auth: HRS §183C-3) (Imp: HRS §183C-4)

SUBCHAPTER 4

PROCEDURES FOR PERMITS, SITE PLAN APPROVALS, AND MANAGEMENT PLANS

§13-5-30 Permits, generally. (a) Land uses requiring comprehensive review by the board are processed as board permits, management plans, or comprehensive management plans, and temporary variances. Departmental permits and emergency permits are processed by the department and approved by the chairperson. Site plans are processed by the department and approved by the chairperson or a designated representative. If there is any question regarding the type of permit required for a land use, an applicant may write to the department to seek a determination on the type of permit needed for a particular action.

(b) Unless provided in this chapter, land uses shall not be undertaken in the conservation district. The department shall regulate land uses in the conservation district by issuing one or more of the following approvals:

- (1) Departmental permit (see section 13-5-33);
- (2) Board permit (see section 13-5-34);
- (3) Emergency permit (see section 13-5-35);
- (4) Temporary variance (see section 13-5-36);
- (5) Site plan approval (see section 13-5-38); or
- (6) Management plan or comprehensive management plan (see section 13-5-39).



(c) In evaluating the merits of a proposed land use, the department or board shall apply the following criteria:

- (1) The proposed land use is consistent with the purpose of the conservation district;
- (2) The proposed land use is consistent with the objectives of the subzone of the land on which the use will occur;
- (3) The proposed land use complies with provisions and guidelines contained in chapter 205A, HRS, entitled "Coastal Zone Management", where applicable;
- (4) The proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community, or region;
- (5) The proposed land use, including buildings, structures, and facilities, shall be compatible with the locality and surrounding areas, appropriate to the physical conditions and capabilities of the specific parcel or parcels;
- (6) The existing physical and environmental aspects of the land, such as natural beauty and open space characteristics, will be preserved or improved upon, whichever is applicable;
- (7) Subdivision of land will not be utilized to increase the intensity of land uses in the conservation district; and
- (8) The proposed land use will not be materially detrimental to the public health, safety, and welfare.

The applicant shall have the burden of demonstrating that a proposed land use is consistent with the above criteria. [Eff 12/12/94; am and comp DEC - 5 2011 ]  
(Auth: HRS §183C-3) (Imp: HRS §§183C-3, 183C-6)]

Note: For regulation of activities in:  
State Parks; see Chapter 13-146.  
Forest Reserves; see Chapter 13-104.

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Forest Reserves; see Chapter 13-104.

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



GARY L. HOOSER  
DIRECTOR

**STATE OF HAWAII**  
**OFFICE OF ENVIRONMENTAL QUALITY**  
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**COMMITTEE ON WATER, LAND, & OCEAN RESOURCES**

**COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION**

**SB755, SD2, proposed HD2, RELATING TO ECONOMIC DEVELOPMENT**

**Testimony of Gary Hooser**  
**Director of the Office of Environmental Quality Control**

**March 21, 2012**

1 **Office's Position:** Strongly Opposed

2 **Fiscal Implications:** None

3 **Purpose and Justification:** This measure exempts a wide range of state and county projects  
4 from the environmental review process of Chapter 343, HRS, and other important public interest  
5 safeguards.

6 The OEQC is opposed to many elements of this Proposed Draft but will keep our  
7 comments limited to those pertaining to HRS Chapter 343.

8 Chapter 343's present exemption process is based on an established procedure which  
9 already provides a straight-forward, easy to implement exemption list process for  
10 actions/projects that are likely to have no or negligible environmental impacts. Scrapping the  
11 current structure that ensures thoughtful review, complete transparency and opportunity for  
12 public input in exchange for a unilateral process that includes no public input, no transparency  
13 and no system of thoughtful impartial review sets a very bad precedent, provides a separate set of

1 rules for public and private projects, is unnecessary, demonstrates a lack of understanding of  
2 Chapter 343 in particular, is not in the best interest of the public and has the potential to do great  
3 damage to our natural environment.

4 This proposed new process begs the question: What is the basis or criteria that will be  
5 used to determine that specific types of projects probably have minimal or no significant  
6 environmental impact and therefore should be included on a categorical list of projects normally  
7 exempt from Chapter 343, HRS? Will there be any consultation before the list is finalized? Will  
8 there be any public input? The language in this proposal clearly indicates a lack of  
9 understanding of how the exemption process actually works. Passing this measure will do little  
10 or nothing to streamline or speed the process, but it will significantly muddy the waters and  
11 further confuse agencies and applicants as to what is exempt and what is not.

12 The Environmental Council has been current with exemption list requests now for many  
13 months. The Council has repeatedly sent notices to agencies requesting that they update or add  
14 to their lists. The existing process is not an onerous and overly burdensome one. I have seen the  
15 process in action and it works if the agency takes the small amount of time required to engage it.  
16 I suppose some agencies would just rather not deal with it, and feel it would be much simpler  
17 just to have the Governor or their Director sign off that a project is exempt. The truth is that the  
18 existing Chapter 343 rules allow for that also and no change in the law is needed to make this  
19 happen.

20 In addition, the OEQC is further concerned that although the proposed exemption  
21 authority, if passed, is scheduled to sunset on June 30, 2015, the governor's or mayors' lists will  
22 remain valid indefinitely unless the governor or mayors terminate them.

1           In addition, the proposed draft defines a State Project as: “1) The contracting agency is a  
2 state agency and 2) The funding includes state or federal funds.” It would seem that there would  
3 be some further clarification needed to the word “includes” to ensure that the minimal or  
4 nominal inclusion of state funds would not be used to gain whatever benefits that would  
5 ultimately accrue to the developer of any projects. It is also unclear if “state agency” includes  
6 the Hawaii Community Development Corporation, the Agribusiness Development Corporation  
7 or other quasi-independent entities.

8           OEQC is also very concerned about the dramatic shortening of the judicial review period  
9 concerning a decision to exempt an agency action from 120 days to 60 days. It is important to  
10 note that there is no requirement of public notification of an exemption declaration and thus the  
11 public has no way of knowing if a project is exempted or not exempt, nor whether a proposed  
12 action has started or not. The public would be kept completely in the dark on exempted projects  
13 and 60 days is a woefully inadequate period to respond to an exemption declaration and/or action  
14 when there is no requirement to notify the public in the first place.

15           In light of this and many, many other serious concerns, the OEQC opposes the Proposed  
16 HD2 of SB755 and believes that if passed it would result in irreparable harm to Hawaii’s  
17 environment.

18           Thank you.



**SB 755, SD2, HD2 (Proposed)**  
**RELATING TO ECONOMIC DEVELOPMENT**  
House Committee on Water, Land, & Ocean Resources  
House Committee on Energy & Environmental Protection

March 21, 2012

11:15 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) **OPPOSES** SB 755, SD 2, HD 2 (proposed), which would severely erode protections of Hawai'i's environmental and cultural resources by creating a myriad of special management area (SMA) and environmental review exemptions in the name of expediting projects with any level of state or county funding. We note that the proposed bill draft before these committees varies greatly from the version passed by the Senate, which authorized "peer-to-peer entertainment" (*i.e.*, Texas Hold 'em and Omaha poker) and created a commission in charge of oversight.

SB 755, SD 2; HD 2 (proposed) would create new SMA and environmental review exemptions for a wide variety of projects that receive any level of government funding. This bill adopts language from HB 530, HD 1, which would change four main things under the existing language and application of Chapter 205A, Hawai'i Revised Statutes:

- (1) For projects where the State is the contracting agency and any state or federal funds are used, remove home-rule in SMA permitting from the counties and place review of state projects with the State Office of Planning, as lead agency for the coastal zone management program (CZMP), while also making public hearings for these projects optional;
- (2) For projects where the State is the contracting agency and any state or federal funds are used, remove home-rule in granting shorelining setback variances from the counties and place review of state projects with the State Office of Planning, as lead agency for CZMP;
- (3) Under Section 7 of the bill, remove the requirement that state projects need to be consistent with county general plans and zoning; and
- (4) Under Sections 28-31 of the bill, grant the Board of Land and Natural Resources (BLNR) and the Director of the Department of Transportation (DOT) the authority to exempt state projects from SMA permitting and shoreline setbacks, where their respective departments are the contracting agency.

In addition to the SMA exemptions provided in HB 530, HD 1, the instant bill, as proposed, would also create a new process for exempting state or county projects from

environmental review, under Chapter 343, Hawai'i Revised Statutes. These new amendments grant environmental assessment (EA) exemption authority to the Governor and mayors for specific types of state or county projects deemed to probably have minimal effect to no effect on the environment. This bill also includes the commercial harbor and airport permitting exemptions otherwise found in HB 2613, HD1 and HB 2154, HD 2, SD 1, respectively.

The proposed SB 755, SD 2, HD 2 grants the State broad powers over project planning while simultaneously reducing county and community input. The SMA amendments contained in Parts 1 through V of the bill would grant the state near unilateral control over projects with any level of state or federal funding by placing approval authority in the State of Hawai'i Office of Planning, by giving the BLNR and State DOT Director the authority to exempt their agency projects from SMA permits and shoreline setback, and by eliminating the requirements that state projects conform to county general plans and zoning.

Equally troublesome is the separate EA exemption process created for state and county projects when a functional system for creating agency exemption lists currently exists and is overseen by the Office of Environmental Quality Control (OEQC) and the Environmental Council. There appears to be no functional difference between the system that this bill would establish under the Governor or county mayors and the system currently in place, except that the proposed system would bypass public review and approval by the Environmental Council and the list of exemptions could be immediately valid following the publication of the Governor's or mayors' exemption lists in the periodic bulleting published by OEQC. Moreover, the executive branches' exemption lists do not include a mechanism for changes or deletions and would remain effective following the June 30, 2015 sunset provision, unless explicitly repealed.

Without any showing of correlation, the proposed bill appears to suggest that state and county oversight are somehow preventing economic recovery through state and county project expenditures. Although this bill may be touted as a means of promoting economic recovery, the consequences of poor planning remain the same, regardless of the State's economic state, and could result in irreversible impacts or costly remediation measures in the future.

Therefore, OHA urges the committees to HOLD SB 755, SD 2, HD 2, as proposed. Mahalo for the opportunity to testify on this measure.



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 19, 2012 7:27 PM  
**To:** WLOtestimony  
**Cc:** apohi21@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Bill Brown  
Organization: Aupuni O Hawai'i  
E-mail: [apohi21@gmail.com](mailto:apohi21@gmail.com)  
Submitted on: 3/19/2012

Comments:

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 19, 2012 7:29 PM  
**To:** WLOtestimony  
**Cc:** apohi21@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Norman Macomber Jr.  
Organization: Aupuni O Hawai'i  
E-mail: [apohi21@gmail.com](mailto:apohi21@gmail.com)  
Submitted on: 3/19/2012

Comments:

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 19, 2012 7:28 PM  
**To:** WLOtestimony  
**Cc:** apohi21@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

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Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Samson Brown  
Organization: Aupuni O Hawai'i  
E-mail: [apohi21@gmail.com](mailto:apohi21@gmail.com)  
Submitted on: 3/19/2012

Comments:



*Hawaii's Thousand Friends*

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March 20, 2012

COMMITTEE ON WATER, LAND & OCEAN RESOURCES

Rep. Jerry Chang, Chair  
Rep. Sharon Har, Vice Chair

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECT

Rep. Denny Coffman, Chair  
Rep. Derek Kawakami, Vice Chair

SB 755 SD1 HD1 proposed HD2  
RELATING TO ECONOMIC DEVELOPMENT

Committee Chair and Members:

Hawaii's Thousand Friends, a statewide non-profit land and water use organization, opposes proposes House Draft 2 of SB 755 SD1 HD1 that exempts state projects from environmental oversight and includes automatic approval deadlines.

Destruction of Hawaii's finite and fragile environment and coastal resources does not distinguish between public or private development both can be equally damaging. So to think that just because a project is developed by the state that it should be exempt from environmental laws is absurd. Government should lead by setting a good example instead of thinking that state projects are above the law.

The proposed HD2:

- Exempts all state projects from Chapter 343 requirements and environmental review
- Exempts DLNR and DOT projects from Hawaii's Coastal Zone Management Act Special Management Area use permit process and shoreline setback variance requirements until June 30, 2015.

Proposed HD2 negates the objectives of HRS 205A to: protect, preserve, and where desirable, restore or improve the quality of coastal scenic and open resources; protect valuable coastal ecosystems, including reefs, from disruption and minimize adverse impacts on all coastal ecosystems; improve the development review process, communication, and public participation in the management of coastal resources and hazards and promote the protection, use, and development of marine and coastal resources to assure their sustainability.

- Exempts state projects from county general plans and zoning.

This flies in the face of HRS 46 county home rule. This exemption also negates the work of countless residents who work hard on their general and development/sustainable community plans to provide a better quality of life.

- Exempts airport structures and improvements temporarily, but no ending date was given, from the Special Management Area Permit and shoreline setback variance process necessary to comply with Federal Aviation Administration regulations.

Proposed HD2 does not identify which FAA regulations must DOT comply with that make it necessary to seek exemptions from Hawaii's coastal protection program?

- Exempts all work in a state commercial harbor from any permitting and site plan approval requirements for submerged lands in the conservation district.

Exempting state harbors from site plan approval requirements eliminates DLNR oversight and regulation of construction, reconstruction, demolition, or alteration of any structure, building, or facility within submerged lands or on adjacent fast land.

- Exempts projects approved by the governor from approval by the Environmental Council or compliance with rules of the Office of Environment Quality Control.

Proposed HD2 makes the Governor the *only* authority, no public input, no public or agency review, on whether a state project is harmful to the environment totally by-passing the authority given OEQC in 1970 to "help simulate, expand and coordinate efforts to maintain the optimum quality of the State's environment."

- Exempts the State Office of Planning from Chapter 91, the public proceeds and open government law.

If it becomes law that a public state agency can act in secrecy out of sight of the public then the floodgates will open for other government agencies to follow suit.

- Exempts the requirement for the lead agency State Office of Planning to hold a public hearing.

Removing the public from any involvement continues.

- Proposed HD2 sets up automatic approval processes that exclude the public and increase pressure on over worked and understaffed agencies.
  - Automatically approves a variance if OP does not act on a variance request within 20 days after receiving the request.

- o Automatically approves a project if OP does not grant or deny a SMAP for a state project within 45-days
- o Automatically approves a project if OP does not grant or deny a SMA minor permit within 30 days

While eliminating environmental review and public involvement are bad enough the destruction of due process continues with the provision that prohibits any person or agency from taking action against OP for granting or denying a SMAP and/or shoreline setback variance for a state structure or activity or exempting a state project from the need for a SMAP.

State agencies should be setting the example on how to work within a system designed to include public involvement and protect Hawaii's fragile coastal resources instead of looking for ways to opt out. Proposed HD2 is a giant step backwards and proves that we are not all in the same canoe paddling towards the same future for our islands and its residents.

Lead by example and do not pass this proposed HD 2.

# HISTORIC HAWAII FOUNDATION

**To:** Rep. Jerry L. Chang, Chair  
Rep. Sharon E. Har, Vice Chair  
Committee on Water, Land & Ocean Resources

Rep. Denny Coffman, Chair  
Rep. Derek S.K. Kawakami, Vice Chair  
Committee on Energy & Environmental Protection

**From:** Kiersten Faulkner  
Executive Director, Historic Hawai'i Foundation

**Committee Date:** Wednesday, March 21, 2012  
11:15 a.m.  
Conference Room 325

**Subject:** SB 755, SD2, HD1, Proposed HD2  
Relating to Economic Development

On behalf of Historic Hawai'i Foundation (HHF), I am writing in **strong opposition to the proposed HD2 for SB 755**, Relating to Economic Development. The proposed amendment to the bill would affect a number of state laws, regulations and statutes related to protection of historic, cultural and natural resources, including special management area permits and shoreline setback variances for state projects, airport structures and improvements, and department of land and natural resources and department of transportation projects; submerged lands used for state commercial harbor purposes in the conservation district; would exempt state and county projects from the environmental review process of chapter 343, HRS, and would reduce the deadline for challenging the lack of an environmental assessment for a state or county project.

Since 1974, Historic Hawai'i Foundation has been a statewide leader for historic preservation. HHF's 850 members and numerous additional supporters work to preserve Hawaii's unique architectural and cultural heritage and believe that historic preservation is an important element in the present and future quality of life, economic viability and environmental sustainability of the state.

HHF believes that the exemptions contained in the **proposed HD2** to SB 755, SD2, HD1, would put significant historic properties at risk. HHF finds that the environmental and preservation review and approval processes are critically important to avoid irreversible and permanent impairment to the historic and cultural properties that are entrusted to the State to ensure their preservation, interpretation and appropriate treatment for the enjoyment of present and future generations.

The State's environmental statutes (HRS 343), historic preservation laws (HRS 6E) and special management area regulations are provide a safeguard to protect the State's historic and cultural properties. Exemption from these laws and processes would mean that the historic and cultural

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## Historic Hawai'i Foundation

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.

properties would not be fully considered during planning, design or construction. HHF also believes that exemption from environmental and cultural regulations sets a bad precedent. Such exemptions are contrary to the basic principle that the "quality of the environment is as important to the welfare of the people of Hawai'i as is the economy of the State" (HRS Chapter 341).

The State of Hawai'i is the steward and caretaker for many historic, cultural and environmental properties, both directly and through its authority over private undertakings through the counties and their permitting processes. These review and approval processes are critically important to avoid irreversible and permanent impairment to the historic and cultural properties that are entrusted to the State to ensure their preservation, interpretation and appropriate treatment for the enjoyment of present and future generations. Eliminating the requirement for review and concurrence on impacts to historic resources would expose Hawaii's heritage to irreversible harm and destruction of irreplaceable historic and cultural properties.

Furthermore, the State's historic preservation review process works in conjunction with similar requirements under the National Historic Preservation Act, the National Transportation Act, and the National Environmental Policy Act, which require that undertakings involving federal funding, permitting or approvals also comply with review and consultation procedures that result in obtaining SHPD concurrence prior to proceeding. Because many public projects in the state have a nexus to federal actions, federal compliance would continue to be required. It would indeed be unfortunate if only the federal government expressed concern for the well-being of Hawaii's historic, cultural and natural resources, whereas passage of this measure would indicate that the state does not share that commitment.

**Therefore, Historic Hawai'i Foundation opposes the proposed HD2 to SB 755, SD2, HD1.**

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**Historic Hawai'i Foundation**

680 Iwilei Road, Suite 690 • Honolulu, HI 96817 • Tel: 808-523-2900 • FAX: 808-523-0800 • [www.historichawaii.org](http://www.historichawaii.org)

Historic Hawai'i Foundation was established in 1974 to encourage the preservation of historic buildings, sites and communities on all the islands of Hawai'i. As the statewide leader for historic preservation, HHF works to preserve Hawai'i's unique architectural and cultural heritage and believes that historic preservation is an important element in the present and future quality of life, environmental sustainability and economic viability of the state.



March 19, 2012

The Honorable Representative Jerry Chang, Chair  
House Committee on Water, Land and Ocean Resources  
The Honorable Representative Denny Coffman, Chair  
Committee on Energy and Environmental Protection  
Hawai'i State Capitol

RE: Testimony opposing SB755 SD2, HD2 (proposed)

Aloha Chairs Chang and Coffman and Committee Members:

The proposal exempts from all county permits, licenses and certificate requirements the capital improvement projects authorized under this act; provided that the capital improvement projects shall meet all federal, state, and other applicable county code requirements.

While we agree that SB755 SD2, HD2 (proposed) might benefit the state by allowing for positive economic benefits, there is no acceptable rational for removing regulatory restrictions to the expeditious construction of certain state and county projects.

The potential impacts of government CIP projects are no different from the potential impacts of any other type of construction or development. The same is true for projects that might trigger the SMA process. All government and private projects should meet the same standards for the benefit of the Hawaii's people and environment.

SB755 SD2, HD2 (proposed) Part II is an assault on home rule and strips the counties of their SMA permitting authority. We are often told that statewide legislation isn't appropriate because legislators shouldn't be telling the counties how to run their business. County permits are county business and the state legislature should not take away that power for the sake of economic expedience.

Part III is more acceptable as long as the exemption applies only to those projects that are necessary to comply with FAA regulations.

Part IV goes one step beyond Part II and with the Governor's approval allows the Directors of the Department of Land and Natural Resources and Department of Transportation to completely exempt from the SMA process and shoreline setback variance requirements any of their departments' projects. Part IV is a total evisceration of the SMA process for these departments and will likely result in projects that will forever encroach on our priceless coastal resources and make a mockery of more than 30 years of careful coastal management by the counties, in compliance with Federal law.

Part V is another dangerous and destructive element of this devastating legislation. It exempts all work involving submerged lands used for state commercial harbor purposes from any permit and site plan review requirements for lands in the conservation district. Chapter 343, HRS, and federal permitting, with Chapter 183C are crucial for protecting Hawai'i's conservation lands. State law related to conservation lands requires the Department of Land and Natural Resources (DLNR) to regulate land use through permitting and regulate construction of structures through site plan approvals.

Chapter 343, HRS, and federal permitting, without Chapter 183C, do not provide oversight for submerged lands and protection of individuals' due process rights. Chapter 343's Environmental Assessments and Environmental Impact Statements only require disclosure of the effects of a proposed action, suggested mitigation and alternatives. They do not result in the approval or denial of a project or a permit.

For submerged lands in the conservation district these determinations are made by the DLNR pursuant to Chapter 183C. Additionally, federally mandated permit requirements (e.g., U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency) do not ensure consideration and protection of rights conferred by the Hawaii State Constitution.

SB755 SD2, HD2 (proposed) would exempt all activities on submerged lands for state commercial harbor purposes, regardless of size, scope or potential impacts. This would undermine the purpose for which Chapter 183C was enacted — to conserve, protect, and preserve important natural and cultural resources of the state and to promote their long-term sustainability and the public health, safety, and welfare.

Part VI of this legislation purports to promote a more streamlined process for exempting projects from environmental review under HRS Chapter 343. By streamlined what is meant is allowing the Governor to grant exemptions from Chapter 343 to virtually any project of his choosing without regard to how it might impact Hawaii's most important asset, our physical environment.

The hallmark of the 2012 legislature is the endless assault on protecting Hawaii's unique and invaluable environment. Too many legislators in this difficult economic era have chosen to align themselves with special interests that stand to reap large economic benefits from the suspension of some of Hawaii's most important and long-standing environmental protection laws. And by coincidence, this also is an election year.

SB755 SD2, HD2 (proposed) must be stopped. Thousands of statewide members of The Outdoor Circle are eagerly awaiting word on how their elected officials vote on this and other similar measures knowing full well that in August and November, they too get a chance to vote.

Respectfully,

Bob Loy  
Interim CEO  
Director of Environmental Programs

To the Honorable Chair Chang and Members of the House Committee on Water, Land, and Ocean Resources, and to the Honorable Chair Coffman and Members of the House Committee on Energy and Environmental Protection:

My name is Mary Steiner. I am the Chair of the Environmental Council. Please accept this testimony on behalf of the Environmental Council.

The Environmental Council **strongly opposes** SB 755 SD2 Proposed HD 2 and respectfully requests that the Committees defer it.

This bill is based on a misconception: that we can spur economic development by temporarily removing rules for construction of certain state and county projects. The rules are needed to ensure wise planning and to protect the environment and our unique cultural heritage.

SB 755, when last seen in 2011, was a bill whose intent was to create a general excise tax exemption for retail sales of specified items then changed into a bill on gambling. Now the proposed HD 2 is a poisonous potion concocted from several misguided bills the public testified against earlier this session before several committees in the House. These misguided bills are HB 530, HB 2154, HB 2613, and HB 1893.

This testimony focuses on Part VI of the proposed HD 2. The Legislature notes that the proposed language does not expand statutory exemptions. But it would authorize the governor and mayors to create and amend their own exemption lists that will stand past the sunset of this measure. This could eliminate public review and participation, in particular by the Environmental Council as the representative of the public, and reduce the ability of the public to challenge these exemptions. Previous Legislatures had the wisdom and fortitude to make difficult choices in finding that:

**“the quality of the environment is as important to the welfare of the people of Hawaii as is the economy of the State. The legislature further finds that the determination of an optimum balance between economic development and environmental quality deserves the most thoughtful consideration, and that the maintenance of the optimum quality of the environment deserves the most intensive care.”** (HRS 341-1, emphasis added)

This bill does not properly balance between economic development and environmental quality. One of the values of environmental review is that the public has a valuable voice in government decision making, especially those who live near proposed projects and will be forced to live with the long-term consequences of bad decisions. This bill circumvents this fundamental principle of democracy by allowing elected officials to decide on their own what does or does not have the potential for significant effects.

The proposed HD 2 defines "construction" as:

"Construction" includes grading, grubbing, stockpiling, excavation, foundation laying, pile driving, demolition, building, reconstruction, rehabilitation, renovation, repairing, maintaining, paving, landscaping, and any other improvement of real property.

And then combines this with a definition of state projects and county projects to so that the governor or a mayor may exempt these kinds of projects from further review under Chapter 343.

This is an unwarranted division between public and private projects. Government should not be exempt from its own laws, yet still require private applicants to undergo environmental review for the same kinds of projects. If anything, private projects should be the ones exempted, unless they require government decision making, lands, funds, or occur in sensitive environments. Providing 120 days to challenge an applicant's lack of an assessment versus 60 days for an agency's lack is unfair.

Chapter 343 already provides two avenues for state and county projects to be exempted from preparing an environmental assessment. Specific projects, on a case-by-case basis, may be exempted upon consultation with other agencies. Alternatively, if the project is of a class previously determined to have little or no potential for environmental impact, it may be exempted. Such exemptions require one paragraph of writing. This process works.

Finally, the public has already weighed in on this measure under its previous incarnation as HB 1893. One of the Council's duties is to assist the Director of the OEQC to convey the concerns of the general public on the environment to government decision makers (HRS §§ 341-4 and -6). To that effect, the Council has attached the testimony submitted by the public on HB 1893. While specific elements of their testimony may no longer apply, the spirit of their testimony is quite clear and speaks directly to the spirit of the language in SB 755. The short, abrupt public notice of the proposed HD 2 leaves little time for people who thought they had successfully communicated their concerns to the Legislature on this matter to be forced to do so again out of a misguided belief that environmental review hampers our economy and a failure to consider the public's input.

Respectfully,

Mary Steiner

Chair, Environmental Council

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 3:48 PM  
**To:** WLOtestimony  
**Cc:** cktorigoe@hotmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM  
**Attachments:** Testimony for SB755, HD2.doc

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Charles Torigoe  
Organization: Individual  
E-mail: [cktorigoe@hotmail.com](mailto:cktorigoe@hotmail.com)  
Submitted on: 3/20/2012

Comments:

Chairs Chang & Coffman and members of the committees:

This measure, in the interest of priming our State economy, essentially de-regulates construction within our shorelines which we as an island state must protect for future generations and which further allows for government spending without the required environmental assessment which may be accomplished within 45 days for any construction project.

The greatest impediment to delays in construction is the lack of government professionals to process consulting contracts for design and the availability of consultants to perform the work in a timely fashion.

The Department of Education (DOE) is a prime example of government's inability to contract with consultants and proceed to bid the jobs out. DOE projects are delayed because of a lack of personnel; repair and maintenance (R&M) projects that have been funded in 2008 are only now being designed because a professional was not available to process consultant contracts. A library project which was scheduled to be completed in January has been extended to May and beyond because the consultant was not able to respond to major and minor design changes. At present, a DOE Project Manager has twenty-three construction projects to manage. Government construction professionals are overworked; the ball is being dropped all over the place.

This situation will not go away by eliminating protections to our environment.

Thank you for allowing this testimony.

Charles K. Torigoe

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 4:36 PM  
**To:** WLOtestimony  
**Cc:** pahinuik001@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Kathleen Pahinui  
Organization: Individual  
E-mail: [pahinuik001@hawaii.rr.com](mailto:pahinuik001@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

This is bait and switch and the worst type of government. To gut our environmental laws will turn Hawaii into Hong Kong. Please do not support this shibai.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 4:10 PM  
**To:** WLOtestimony  
**Cc:** greenhi3@yahoo.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Phil Barnes  
Organization: Individual  
E-mail: [greenhi3@yahoo.com](mailto:greenhi3@yahoo.com)  
Submitted on: 3/20/2012

**Comments:**

SB 755 would roll back environmental protections that have been passed into statute during the last 3 decades. Section 34 is a particularly dangerous attempt to lessen the authority of the Environmental Council as well as an attack on OEQC. I urge you to strongly oppose this dangerous piece of legislation.



**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 4:00 PM  
**To:** WLOtestimony  
**Cc:** pearlj@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Pearl Johnson  
Organization: Individual  
E-mail: [pearlj@hawaii.rr.com](mailto:pearlj@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

Please do not adopt proposed HD2. Exempting projects from safeguards and automatic approval are extremely dangerous to our land and environment. Please preserve our children's future by rejecting this dangerous proposal.

HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES  
HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 21, 2012, 11:15 A.M.

TESTIMONY IN OPPOSITION TO SB 755 SD2 HD1

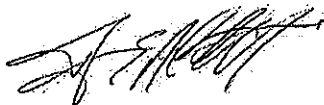
Aloha Chair Chang, Vice Chair Har, and Members of the Committee:

Last year your committee helped improve HRS 205A by raising the special management area (SMA) minor permit threshold from \$125,000 to \$500,000. I applaud you for helping streamline the process last year and making the coastal permitting system better. However, SB 755 SD2 HD1 does not streamline, expedite, or improve the current coastal permitting system. Instead, it risks the loss of approximately \$2 million in federal funding of some 16 coastal planning jobs and several coastal enhancement projects. The bill will create great delay for developers since only one agency, which is presently ill-equipped to do the work of a dozen coastal planners on neighboring islands, would be tasked with coastal permit processing and review. The bill would also jeopardize numerous supporting jobs such as administrative staff, consultants, coastal geologists, and other related staff. The bill would take away each island's right to determine how their coastal amenities are developed and how their beaches, shorelines and oceanfront property are developed. As they say, 'don't change Molokai, but rather let Molokai change you'. Finally, the bill is almost certain to be challenged in court creating yet another long delay and significant hurdle in the land entitlement process.

It is easy to suggest that coastal resource protection and environmental review delay projects unnecessarily and cost construction jobs. However, there is little data to support the finding based on national research on the matter and clear evidence to indicate just the opposite, as mentioned above. For example, the Airports Division of the State Department of Transportation has had Special Management Approvals for multi-million dollar improvements at the Kahului Airport for two to three years, yet the work is only now beginning. Why? This significant delay was apparently not caused by environmental or coastal permitting processes, yet the facility is in dire need of repair. Please ask DOT Airports why, so that we may better understand their challenges and better address these delays.

With tourism being our number one economic driver, it's clear that Hawaii's natural beauty and coastal amenities are our economy. Please don't pass laws exempting certain agencies or projects from reviews that result in better projects, less overall delay in the big picture, and improved coastal resources to market, capitalize on, and enjoy for our visitors and ourselves now and in the future. Thank you for your consideration!

Mahalo!



Thorne Abbott

*Speaking on my own behalf as a resident of Maui and Oahu and coastal professional.*

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 5:57 PM  
**To:** WLOtestimony  
**Cc:** lynnehi@aol.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: lynne matusow  
Organization: Individual  
E-mail: [lynnehi@aol.com](mailto:lynnehi@aol.com)  
Submitted on: 3/20/2012

Comments:  
oppose proposed HD 2. Please do not destroy our environmental safeguards.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 6:04 PM  
**To:** WLOtestimony  
**Cc:** hamakuab@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Michael Crosson  
Organization: Individual  
E-mail: [hamakuab@gmail.com](mailto:hamakuab@gmail.com)  
Submitted on: 3/20/2012

**Comments:**

Please do not pass this bill. Let these proposals be considered by all in a reasonable and deliberate manner.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 5:42 PM  
**To:** WLOtestimony  
**Cc:** abensley80@yahoo.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Adam Bensley  
Organization: Individual  
E-mail: [abensley80@yahoo.com](mailto:abensley80@yahoo.com)  
Submitted on: 3/20/2012

**Comments:**

Do NOT put short term monetary growth before the environment. Here is a quote by James Howard Kunstler that sums up our present economy.  
"The sad truth of the matter is that we face the need to fundamentally restructure the way we live and what we do in North America, and probably along the lines of much more modest expectations, and with very different practical arrangements in everything from the very nature of work to household configurations, transportation, farming, capital formation, and the shape-and-scale of our settlements. This is not just a matter of re-tuning what we have now. It means letting go of much of it, especially our investments in suburbia and motoring - something that the American public still isn't ready to face. They may never be ready to face this and that is why we may never make a successful transition to whatever the next economy is. Rather, we will undertake a campaign to sustain the unsustainable and sink into poverty and disorder as we fight over the table scraps of the old economy... and when the smoke clears nothing new will have been built."

Protect the environment. When the environment goes, we go with it. E malama i ka 'aina.

Adam Bensley

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 5:38 PM  
**To:** WLOtestimony  
**Cc:** islekisses@yahoo.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Ken Burch  
Organization: Individual  
E-mail: [islekisses@yahoo.com](mailto:islekisses@yahoo.com)  
Submitted on: 3/20/2012

**Comments:**

Please do not adopt the proposed HD2. We need to protect our environment more.....not gut regulations that protect the environment. Please value our aina and do not adopt the proposed HD2.

Mahalo, Ken Burch and ohana

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 5:21 PM  
**To:** WLOtestimony  
**Cc:** Kulbisb002@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Brett Kulbid  
Organization: Individual  
E-mail: [Kulbisb002@hawaii.rr.com](mailto:Kulbisb002@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

I oppose this measure because of the political bait and switch used. The rule to be able to gut and replace a measure is a dishonest way to get a less favorable measure passed.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 5:07 PM  
**To:** WLOtestimony  
**Cc:** merway@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Marjorie Erway  
Organization: Individual  
E-mail: [merway@hawaii.rr.com](mailto:merway@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

This kind of 'economic development' in Hawaii is definitely NOT needed and would be very detrimental to taking care of our State. I urge you to completely OPPOSE this bill. Mahalo for your consideration.



**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 3:33 PM  
**To:** WLOtestimony  
**Cc:** maguinger@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Mary A. Guinger  
Organization: Individual  
E-mail: [maguinger@hawaii.rr.com](mailto:maguinger@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

Economics and development must protect the Environment of Hawaii and bring sustainable benefit to the all the people of Hawaii.

As this bill, there is no safeguard.

This is a measurement that will reduce Hawaii's nature and profit a few while degrading the lifestyle of the majority of the people of Hawaii.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 3:18 PM  
**To:** WLOtestimony  
**Cc:** peacesubhadra@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Diane Corcoran  
Organization: Individual  
E-mail: [peacesubhadra@gmail.com](mailto:peacesubhadra@gmail.com)  
Submitted on: 3/20/2012

Comments:

**har2-Samantha**

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**From:** Bart Dame [bedame@gmail.com]  
**Sent:** Tuesday, March 20, 2012 2:57 PM  
**To:** WLOtestimony  
**Subject:** Testimony in Opposition to SB755 SD2 HD1

Aloha Chairs, vice-chairs and Committee members,

I am testifying in **STRONG OPPOSITION** to **SB 755** in its current incarnation.

I strongly believe it is a mistake to set aside the regulatory protections we have established to minimize negative impact of projects, whether on government land or on private.

I recognize this bill is probably motivated by a desire to expedite projects in order to relieve unemployment among construction workers, both for their benefit and for the broader purpose of getting money circulating through the local economy and helping the recovery. I also think the administration has projects it believes serve a good public purpose and that their expedited completion will bring benefits to the people of Hawaii faster if they are allowed to skip a more thorough environmental review of their potential negative impact. But our environmental laws have not been created as an arbitrary barrier to projects. Rather, they **FORCE** the developers and government agencies to pay close attention to potential, sometimes unanticipated negative impacts, consider alternatives which might otherwise be overlooked and, if the project is to proceed, determine ways to mitigate against potential harm.

The current environmental reviews are a prudent and necessary step in the conceptualization and planning of any significant project.

I am also opposed to changes which require automatic approval of permits within a certain period of time. Such an approach can only be considered reasonable if the state agencies reviewing permits were fully staffed. But virtually all these offices are grossly understaffed. If this delays the permitting process, maybe the developers should press for more complete staffing, an idea they have no incentive to promote if the alternative is for their permits to sail through, unexamined.

So while I have some sympathy for some of the intentions behind this bill, I must conclude it would be a penny-wise, pound-foolish, **FALSE** solution. The Constitution of the State of Hawaii mandates we protect our environmental resources. This is not only a constitutional obligation, it is a moral obligation and, ironically, an **ECONOMIC** obligation, as it is Hawaii's natural beauty which nourishes our main industry of tourism. I stand fully ready to offer my advice on how to stimulate the economy without pursuing this **IMPATIENT**, shortsighted approach.

Please kill this bill.

Thank you for the opportunity to testify,

**BART DAME**  
710 West Hind Drive  
Honolulu, HI

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 2:40 PM  
**To:** WLOtestimony  
**Cc:** carolphilips1@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Carol Philips  
Organization: Individual  
E-mail: [carolphilips1@gmail.com](mailto:carolphilips1@gmail.com)  
Submitted on: 3/20/2012

Comments:  
Dear Honorable Legislatures,

Please do not adopt the proposed HD2.

Respectfully,  
Carol Philips  
Haleiwea

har2-Samantha

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**From:** randy ching [oahurandy@yahoo.com]  
**Sent:** Tuesday, March 20, 2012 2:05 PM  
**To:** WLOtestimony; EEPtestimony  
**Subject:** in opposition to SB755 SD2 HD1 proposed HD2 - relating to economic development

SB755 SD2 HD1 proposed HD2 (opposed)  
House Committees on Water, Land, and Ocean Resources; Energy and Environmental Protection  
Hearing on Wednesday, March 21 at 11:15 a.m. in room 325

Chair Chang, Vice Chair Har, Chair Coffman, Vice Chair Kawakami, and members of the committees,

I am opposed to SB755 SD2 HD1 proposed HD2. It is a horrendous bill that eliminates public input and environmental protection for many projects. Please do not adopt HD2. Mahalo.

Sincerely,

Randy Ching  
Honolulu  
[oahurandy@yahoo.com](mailto:oahurandy@yahoo.com)

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 1:55 PM  
**To:** WLOtestimony  
**Cc:** lorendd@yahoo.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Loren C. Divers  
Organization: Individual  
E-mail: [lorendd@yahoo.com](mailto:lorendd@yahoo.com)  
Submitted on: 3/20/2012

**Comments:**

Government should in no case have any regulatory advantage over any other project. As such you need to strike down all of the regulatory shortcuts now contemplated under HD2.

Thank you

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 12:11 PM  
**To:** WLOtestimony  
**Cc:** gschultz@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Greg Schultz  
Organization: Individual  
E-mail: [gschultz@hawaii.rr.com](mailto:gschultz@hawaii.rr.com)  
Submitted on: 3/20/2012

Comments:

It is completely inappropriate to exempt so many projects from planning and oversight measures which took years, or even decades, to put in place. We could be stuck with disastrous consequences and expenses in coming years by "ramrodding" projects past reviews. In some instances we citizens could be legally restrained from contesting bad decisions. This is government by the bureaucrats and contractors, not government by the people and their representatives. Terribly bad legislation.

TO: Members of the Committees on Water, Land & Ocean Resources and Energy & Environmental Protection

FROM: Natalie Iwasa  
808-395-3233

HEARING: 11:15 a.m. Monday, March 21, 2012

SUBJECT: SB755, SD2, HD1 & Proposed HD2 Fast-tracked Development - **OPPOSED**

Aloha Chairs and Committee Members,

Thank you for allowing me to provide testimony in opposition to SB755, SD2, HD1 with proposed HD2. This bill would remove many of the requirements to follow current planning, zoning and environmental laws. If that's not scary enough, the HD2 provides for automatic approvals.

**DO NOT allow this bill to move forward.**



har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:50 AM  
**To:** WLOtestimony  
**Cc:** OccupyHiloMedia@yahoo.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Kerri Marks  
Organization: Individual  
E-mail: [OccupyHiloMedia@yahoo.com](mailto:OccupyHiloMedia@yahoo.com)  
Submitted on: 3/20/2012

Comments:

I OPPOSE Bill 755. This gut and replace piece of junk legislation and the process that brought it about is offensive. Please do not adopt the proposed HD2.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:16 AM  
**To:** WLOtestimony  
**Cc:** jepsona001@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Andrea I. Jepson  
Organization: Individual  
E-mail: [jepsona001@hawaii.rr.com](mailto:jepsona001@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

This is so impossible in terms of protecting our land. o please, no. oppose this.

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:13 AM  
**To:** WLOtestimony  
**Cc:** jeannine@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Jeannine Johnson  
Organization: Individual  
E-mail: [jeannine@hawaii.rr.com](mailto:jeannine@hawaii.rr.com)  
Submitted on: 3/20/2012

Comments:  
Please do not adopt the proposed HD2. Mahalo!

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:12 AM  
**To:** WLOtestimony  
**Cc:** dlching@aol.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Donna Ching  
Organization: Individual  
E-mail: [dlching@aol.com](mailto:dlching@aol.com)  
Submitted on: 3/20/2012

**Comments:**

This bill undoes decades of environmental progress. Giving projects a "pass" through processes intended to protect the aina is not pono under any circumstances. No matter how much we want to stimulate the economy, we need to properly vet development in a thoughtful and transparent way. Thank you for not supporting this terrible piece of legislation.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:05 AM  
**To:** WLOtestimony  
**Cc:** icec002@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: charley ice  
Organization: Individual  
E-mail: [icec002@hawaii.rr.com](mailto:icec002@hawaii.rr.com)  
Submitted on: 3/20/2012

**Comments:**

Why are we trying to go backwards when we so earnestly need to press on to the future, think for the future? Are we incapable of creative, innovative thinking? We want good projects, smart projects, not riff-raff that could not pass review. Why this invitation to abuse? Why this talk about jobs when we know it's a subsidy to companies? We elected you to serve the public interest, not to suspend it temporarily while companies with poor planning get ahead.

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:05 AM  
**To:** WLOtestimony  
**Cc:** karen@redwoodgames.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Karen Chun  
Organization: Individual  
E-mail: [karen@redwoodgames.com](mailto:karen@redwoodgames.com)  
Submitted on: 3/20/2012

Comments:

Please don't pass this law. Projects funded by the taxpayers deserve thorough scrutiny, refining and input from the citizens. To exempt them from this discussion and scrutiny is just bad planning and will give poor results.

This is especially true because many projects are planned by staff on Oahu who have no knowledge of neighbor island conditions.

Without public input leading to better plans, it is like you are planning with a blindfold.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 10:48 AM  
**To:** WLOtestimony  
**Cc:** ndavlantes@aol.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Nancy Davlantes  
Organization: Individual  
E-mail: [ndavlantes@aol.com](mailto:ndavlantes@aol.com)  
Submitted on: 3/20/2012

**Comments:**

The sneaky tactic of "gut and replace" has reached a new low with this bill. Originally drafted to save parents sales tax on school supplies, it became a bill to allow gambling and, after going nowhere last session, is now back, thanks to its general heading "Relating to Economic Development. Only this time it would gut environmental regulations across the board for at least a three-year period.

Faced with opposition on the individual bills seeking to remove environmental review in specific areas, this one seeks to do the job in a single bill that has not had a single hearing until today.

How do you expect citizens to have any trust in our legislature when it returns to this "gut and replace" tactic time and again? Sneaky and devious don't begin to describe it.

Please stop this bill in its tracks.

Nancy Davlantes  
Kaneohe

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 10:46 AM  
**To:** WLOtestimony  
**Cc:** rezentesc@aol.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Cynthia K.L. Rezendes  
Organization: Individual  
E-mail: [rezentesc@aol.com](mailto:rezentesc@aol.com)  
Submitted on: 3/20/2012

Comments:  
Aloha,

Please do not adopt SB 755. It makes no sense that the Office of Planning will have ultimate decision making on all of the projects identified in the bill when they may or may not have the direct technical expertise to address each of the projects and make an informed decision on whether exemptions should be given or not for special management area permits.

While this process may be quicker, the real question is whether or not it will be correct in not only allowing projects to continue but also whether projects should be re-considered if there are potential negative environmental impacts.

This gut and replace of the bill also demonstrates how dangerous it is to allow this type of action so late in the legislative process since the proper committees to vet the new language are being by-passed until conference committee time which precludes public testimony.

Please HOLD this bill.

Mahalo,

Cynthia K.L. Rezendes  
Wai`anae Coast resident



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 9:29 AM  
**To:** WLOtestimony  
**Cc:** shannonkona@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Shannon Rudolph  
Organization: Individual  
E-mail: [shannonkona@gmail.com](mailto:shannonkona@gmail.com)  
Submitted on: 3/20/2012

**Comments:**

Aloha!

SB755 is a terrible bill wiping out decades of hard fought environmental laws of our state. Are we going to "Superferry" everything? Shameful. There's very little we in Hawaii can do to change the national economic situation controlled by DC and Wall St. This bill is a ruse to weaken or kill important safeguards and cut "the people" out of the process. Shame on all who vote FOR SB755.

**har2-Samantha**

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**From:** barbara george [barbarageorge40@yahoo.com]  
**Sent:** Tuesday, March 20, 2012 9:25 AM  
**To:** WLOtestimony  
**Subject:** SB755 SD2 HD2

As a Hawaii resident, homeowner, and active registered voter, I STRONGLY OPPOSE the above measure, SB 755 SD2 HD2. It is short-sighted, small-minded, and greedy for the here-and-now to sacrifice long-term environmental sustainability for short-term economic gain for a few.

ENOUGH IS ENOUGH

BASTA YA

AEOLE

Barbara George  
58-126B Iwia Pl.  
Haleiwa, HI 96712

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 9:21 AM  
**To:** WLOtestimony  
**Cc:** dickmayer@earthlink.net  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Dick Mayer  
Organization: Individual  
E-mail: [dickmayer@earthlink.net](mailto:dickmayer@earthlink.net)  
Submitted on: 3/20/2012

**Comments:**

HD 2 is VERY bad; HD 2 MUST BE DEFERRED..

- HD 2 has so many provisions that were not vetted by the public.
- HD 2 will allow Hawaii's environment to be destroyed, the basis of our whole economy.
- HD 2 has no safeguards against abuse.
- HD 2 will turn the legislator into a laughing stock and will permanently mark House members as deceivers of the public.

har2-Samantha

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**From:** jimiberlin@aol.com  
**Sent:** Tuesday, March 20, 2012 6:31 AM  
**To:** WLOtestimony  
**Subject:** SB755 Opposed

I oppose SB755. Environmental and coastal protection are my highest priorities.  
James Berlin  
Waialua Hi 96791

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 5:35 AM  
**To:** WLOtestimony  
**Cc:** rkaye@mdi.net  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Robin Kaye  
Organization: Individual  
E-mail: [rkaye@mdi.net](mailto:rkaye@mdi.net)  
Submitted on: 3/20/2012

Comments:

**har2-Samantha**

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**From:** Angela Videotron [angelavideotron@gmail.com]  
**Sent:** Tuesday, March 20, 2012 1:42 AM  
**To:** WLOtestimony  
**Subject:** Testimony in opposition of SB755 SD2 HD2

Aloha,

I am writing to express my opposition to SB755 SD2 HD2. This bill would wrongly exempt large developments and projects from existing environmental review processes and put too much power in the hands of the Governor. Other states with similar laws are able to effectively finish projects, and often more quickly and cost effectively than in our state. The unique natural resources of Hawai'i should not be given away to private OR public development without thorough environmental review. Blanket exemptions are not the answer. It looks like moneyed interests are looking to streamline the process of raking in the profits while our quality of life suffers. I urge you to stop this bad bill.

Mahalo,

Angela Breene

Haleiwa, HI 96712  
[angelavideotron@gmail.com](mailto:angelavideotron@gmail.com)

har2-Samantha

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**From:** Tom Jacobs [tom.jacobs@prodigy.net]  
**Sent:** Monday, March 19, 2012 9:50 PM  
**To:** WLOtestimony  
**Cc:** Gil Riviere

Dear Sir,

Please register our opposition to SB755. We think that blanket exemptions allowed in this bill are a serious danger to our environment and an insult to our intelligence.

with aloha,

Thomas Jacobs  
Noelle Bombardier  
61-749 Papailoa Road  
Haleiwa, HI 96712

Tom Jacobs  
Pau Pono Publishing  
[www.mymysterynovel.com](http://www.mymysterynovel.com)  
[tom@mymysterynovel.com](mailto:tom@mymysterynovel.com)  
808-371-9111

har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Monday, March 19, 2012 2:49 PM  
**To:** WLOtestimony  
**Cc:** mauibrad@hotmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Brad Parsons  
Organization: Individual  
E-mail: [mauibrad@hotmail.com](mailto:mauibrad@hotmail.com)  
Submitted on: 3/19/2012

Comments:

Oppose this bill and these kinds of "bait and switch" parliamentary maneuvers.



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 21, 2012 12:43 AM  
**To:** WLOtestimony  
**Cc:** ChoonJamesHawaii@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: Yes  
Submitted by: Choon James  
Organization: Country Talk Story  
E-mail: [ChoonJamesHawaii@gmail.com](mailto:ChoonJamesHawaii@gmail.com)  
Submitted on: 3/21/2012

**Comments:**

To the Honorable members of the Hawaii State Legislators:

You cannot possibly think that SB755 SD2 HD1 HD2 is something that the public is going to accept without protests.

You and I know there is a lot of Houdini play at legislative sessions. While it may appear to you as business as usual, it can no longer be so.

So-called gut & replace Houdini bills such as this one is disgraceful and disingenuous at a democratic institution such as ours. It is downright patronizing and condescending to think that the public can be hoodwinked.

The days of politics as usual must be over. The internet and other media avenues have leveled the playing fields for elite politicians and the common folks.

I suggest you google for simple words like Hawaii transparency, Sunshine Law, cronyism. and environment. You will notice there is no shortage of disdain and disgust at the ways the people's business are being conducted at the Hawaii State Capitol.

There is also an OPEN LETTER IN DEFENSE OF HAWAII'S ENVIRONMENT & OPEN GOVERNMENT and attached petition that have garnered exponential responses from citizens from all over the Hawaiian Islands. These rumblings are not going away and should be sufficient to send a message to legislative decision-makers that the people have had enough.

Let's get back to doing the people's business the democratic way. Exempting exceptional entities for exceptional developers and quashing basic environmental reviews is short-sighted and will cause irreparable harm to basic democratic procedures and to our finite island home.

SB 755 HD 2 is monkey business, not good business. You can't possibly wish to be remembered and despised in history as enemies against democracy. Table this bill and let's work on a better solution with a win-win for all.

Best regards,

Choon James

Kahuku, Hawaii

808 293 9111

[ChoonJamesHawaii@gmail.com](mailto:ChoonJamesHawaii@gmail.com)

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 21, 2012 7:42 AM  
**To:** WLOtestimony  
**Cc:** Lardizabal@local368.org  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Support  
Testifier will be present: No  
Submitted by: Al lardizabal  
Organization: Hawaii Laborers' Union  
E-mail: [Lardizabal@local368.org](mailto:Lardizabal@local368.org)  
Submitted on: 3/21/2012

Comments:  
March 21, 2012  
7:30 a.m.  
Chair Chang and Chair Coffman:

The Hawaii Laborers' Union strongly supports the proposed SB755, SD2, HD2 version of the bill. This will provide a temporary fix to the log jam of projects on the books for government projects and allow the appropriated funds to be expended as intended for the public benefit and to move our economy from a recessionary mode. The Legislature has committed to multi-million dollar funding in current legislation for needed government projects especially in education, etc.; this bill will allow projects to move forward.

Thank you for the opportunity to submit this late testimony.

Al Lardizabal  
Government Relations  
Hawaii Laborers' Union



## LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: [henry.lifeoftheland@gmail.com](mailto:henry.lifeoftheland@gmail.com)

### COMMITTEE ON WATER, LAND, & OCEAN RESOURCES

Rep. Jerry L. Chang, Chair

Rep. Sharon E. Har, Vice Chair

### COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

Rep. Denny Coffman, Chair

Rep. Derek S.K. Kawakami, Vice Chair

DATE: Wednesday, March 21, 2012

TIME: 11:15 a.m.

PLACE: Conference Room 32

**SB 755, SD2, HD1**

**PLEASE KILL THE BILL**

Aloha Chairs Chang and Coffman, Vice Chairs Har and Kawakami and Members of the Committees

My name is Henry Curtis and I am the Executive Director of Life of the Land, Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

***We can have a diversified economy and a strong environment. The decision is yours.***



# Sierra Club Hawai'i Chapter

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

## HOUSE COMMITTEE ON WATER, LAND, & OCEAN RESOURCES HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

March 21, 2012, 11:15 A.M.  
(Testimony is 1 page long)

### TESTIMONY IN STRONG OPPOSITION TO SB 755 (Proposed HD2)

Aloha Chair Chang, Chair Coffman, and Members of the Committees:

The Sierra Club of Hawai'i strongly *opposes* SB 755 (Proposed HD2). This bill exempts (1) removes county authority over the SMA for state projects and creates a new administrative process; (2) exempts airport structures from the SMA if there is a pertinent FAA regulation; (3) exempts DOT and DLNR from the SMA under certain circumstances; (4) exempts submerged lands for commercial harbors from BLNR oversight; (5) allows the governor and mayor(s) to create lists to exempt projects from any environmental review; (6) removes the public's right to challenge the failure to obtain an environmental assessment; and (7) limits any action challenging the failure to do an assessment to 60 days.

This "gut and replace" measure is a staggering assault on the environment. It would likely terminate all federal funding for the coastal zone management program, eliminate public participation in governmental projects along the coastline, and practically eliminate environmental review process for most governmental projects.

Our regulatory system provides for checks and balances and ensures protection of the public at large. It ensures some form of accountability—if the State plans to take action that may diminish the quality of life or adversely impact the environment that everyone shares, those impacts are acknowledged and mitigated before they occur. Without such a disclosure, we would blindly take actions without knowing what the future costs or benefits would be. The essence of our environmental review process is used to understand and fix problems *before they occur*.

Mahalo for the opportunity to testify.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:54 PM  
**To:** WLOtestimony  
**Cc:** cy@hawaii.edu  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM  
**Attachments:** SB755.docx

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Connie Yonashiro  
Organization: Individual  
E-mail: [cy@hawaii.edu](mailto:cy@hawaii.edu)  
Submitted on: 3/20/2012

Comments:

To the Honorable Chair Chang and Members of the committee on WLO, and to the Honorable Chair Coffman and Members of the committee on EEP:

I am writing in opposition to SB755 HD2 Proposed, specifically Part VI of the bill, which promotes a more “streamlined process [by temporarily] exempting state and county projects from the environmental review process of chapter 343” under the guise of promoting economic revitalization. This bill, originally relating to “gambling” & “peer-to-peer entertainment,” has now morphed into a strange patch-work vehicle for resurrecting certain bills already deferred this during this session (such as HB1893).

First, chapter 343 is not just a “regulatory restriction to expeditious construction of certain state and county projects.” Its stated purpose is to “alert decision makers to significant environmental effects which may result from the implementation of certain actions.” HRS § 343-1. This bill aims at expediting the exemption process, however, a quick process already exists for actions that will “probably have minimal or no significant effects on the environment.” There is a one-page exemption guideline sheet posted online by the OEQC.

Additionally, the proposed bill’s language basically mirrors HRS 343-6(a)(2) which the legislature gave the Environmental Council the ability to adopt rules exempting specific actions from ch. 343 “because they will probably have minimal or no significant effects on the environment,” which in its own rules has the very important caveat that applies to all categorical exemptions, which are “inapplicable when the cumulative impact of planned successive actions in the same place, over time, is significant, or when an action that is normally insignificant in its impact on the environment may be significant in a particularly sensitive environment.” HAR §11-200-8. This bill does not have any of this type language and does not consider these types of effects.

Second, this bill also differentiates between state and private actors in challenging the lack of assessment, by reducing the length of time the public can challenge an agency’s action by half. It seems inequitable to create an unlevel playing ground, where the state purposely creates its own upper hand, against private actors while at the same time reducing the power of the public to have any say in the decision-making process.

The legislature, in creating chapter 343 that “public participation during the review process benefits all parties involved and society as a whole.” HRS § 343-1. This bill reduces this essential part of the environmental review process, because it basically allows the governor and mayors to create their own exemption list, and not use the available channels for exemption already in place. In contrast, HRS § 344 calls for “expanding citizen participation in the decision-making process.” HRS § 344-4(10). Chapter 343 doesn’t aim at promoting environmental consideration solely at the expense of economic concerns but only to “ensure that environmental concerns are given appropriate consideration in decision making along with economic and technical considerations.” HRS § 343-1.

For these reasons, I oppose this bill and hope you will defer this measure. Mahalo for the opportunity to comment.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:27 PM  
**To:** WLOtestimony  
**Cc:** lance.duncan@live.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Lance Duncan  
Organization: Individual  
E-mail: [lance.duncan@live.com](mailto:lance.duncan@live.com)  
Submitted on: 3/20/2012

**Comments:**

we have already said no to these bills, why play such a dirty trick as to try this last-minute gut & stuff maneuver? How about instead, listening to the people from whom you derive your power and exercise the will of the people, not the dirty corporations sponsoring this underhanded backhand slap to the public?



## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 8:00 PM  
**To:** WLOtestimony  
**Cc:** skaye@runbox.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: sally kaye  
Organization: Individual  
E-mail: [skaye@runbox.com](mailto:skaye@runbox.com)  
Submitted on: 3/20/2012

**Comments:**

This is just another attempt to eviscerate environmental safeguards that have served the state well for decades, and if removed, will be the source of shame for the next seven generations.

Sadly, this is just what Walter Murray Gibson did to Lana'i - pretty much anything he wanted, because no one was watching.

Any administration that supports this measure, much less proposes it, should never have been elected in the first place.

And, by the way, this bill as written will be proven to be unconstitutional.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 7:07 PM  
**To:** WLOtestimony  
**Cc:** jmckown@hawaii.edu  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: James McKown  
Organization: Individual  
E-mail: [jmckown@hawaii.edu](mailto:jmckown@hawaii.edu)  
Submitted on: 3/20/2012

**Comments:**

I would like to express my opposition to this revised bill. The idea of promoting economic development by sacrificing environmental protections in place to preserve that which has for decades attracted visitors to our islands makes little long-term sense. Our environmental review process exists exactly for the purpose of preventing abuses to our aina. Shoreline building has lead to beach erosion. Allowing exemptions for future building in the name of economic development is absurd. While many state projects stand to benefit us all, exempting any from a full environmental review in the name of economic development hurts us all. Please do not allow the erosion of our precious environmental protections in the name of a quick cash infusion and at the expense of our long-term quality of life.

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 21, 2012 7:46 AM  
**To:** WLOtestimony  
**Cc:** jeffkent3@hotmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Jeff Kent  
Organization: Individual  
E-mail: [jeffkent3@hotmail.com](mailto:jeffkent3@hotmail.com)  
Submitted on: 3/21/2012

**Comments:**

This last minute gut and replace bill full of environmental exemptions defies the open spirit of government. DEFER the draft version. DEFER all versions.

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 21, 2012 7:42 AM  
**To:** WLOtestimony  
**Cc:** annmarie@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Ann Marie Kirk  
Organization: Individual  
E-mail: [annmarie@hawaii.rr.com](mailto:annmarie@hawaii.rr.com)  
Submitted on: 3/21/2012

Comments:  
Aloha Senators,

Please OPPOSE SB 755 SD2 HD1 and HD2,

No one should be above the law in the public or private sector. All laws, requirements and approvals should be met and no one should be exempt. This bill proposes to put a State Agency above the law and the environmental review process. The idea to promote economic development by temporarily removing regulatory restrictions to expedite construction of certain state and county projects can cause long term and permanent negative damage to our environment and cultural and historical areas in Hawai'i and our ocean areas.

Because something is done faster doesn't make it safe and right - it just means it got done faster. What happened to doing what is safe and right for our community, our shared environment and the future of Hawai'i?

How can our Environmental laws be so tampered with? Environmental laws for Hawai'i were put in place by legislators who came before you and who understood we must protect and preserve to the highest degree our environment and cultural sites. What a tremendous legacy they left us all. Let us all respect their foresight in 2012. These legislators had the vision to see the positive impact these environmental laws would have for future generations in Hawai'i. The proposed weakening of these laws does not honor their hard work and all the work done by the community members and organizations for many years. What will the legacy of this Legislature be? Don't let it be SB 755 SD2.

Please do what is right for the precious natural and cultural resources of Hawai'i i by upholding the laws for their protection statewide for they are irreplaceable. No exceptions. No exemptions. To quote from HRS 183 C9 "It is therefore, the intent of the LEGISLATURE to conserve, protect, and preserve the important natural resources of the state through appropriate management and use to promote their long-term sustainability and the public health, safety, and welfare."

Please OPPOSE SB 755 SD 2 HD1 and HD2.

Mahalo,  
Ann Marie Kirk

Maunaloa, O'ahu

**har2-Samantha**

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 21, 2012 5:36 AM  
**To:** WLOtestimony  
**Cc:** 8alana8@gmail.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Alana Bryant  
Organization: Individual  
E-mail: [8alana8@gmail.com](mailto:8alana8@gmail.com)  
Submitted on: 3/21/2012

Comments:

Aloha,

I urge you to please not adopt this bill. All of its proposed exemptions are reckless. Many of its exemptions pertain to environmental safeguards-- it is unacceptable for projects to be exempt from environmental review, zoning, and shoreline setback. The bill's provisions for automatic approvals are also unsettling, and I do not support them.

Mahalo for your consideration.

Alana Bryant

## har2-Samantha

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 20, 2012 11:32 PM  
**To:** WLOtestimony  
**Cc:** waynetakamine@hawaii.rr.com  
**Subject:** Testimony for SB755 on 3/21/2012 11:15:00 AM

Testimony for WLO/EEP 3/21/2012 11:15:00 AM SB755

Conference room: 325  
Testifier position: Oppose  
Testifier will be present: No  
Submitted by: Wayne Takamine  
Organization: Individual  
E-mail: [waynetakamine@hawaii.rr.com](mailto:waynetakamine@hawaii.rr.com)  
Submitted on: 3/20/2012

### Comments:

HOUSE OF REPRESENTATIVES  
THE TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION OF 2012

COMMITTEE ON WATER, LAND, & OCEAN RESOURCES Rep. Jerry L. Chang, Chair Rep. Sharon E. Har, Vice Chair

Rep. Rida T.R. Cabanilla, Rep. Derek S.K. Kawakami, Rep. Mele Carroll, Rep. Mark M. Nakashima, Rep. Denny Coffman, Rep. Gil Riviere, Rep. Robert N. Herkes, Rep. Cynthia Thielen, Rep. Ken Ito

COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION Rep. Denny Coffman, Chair Rep. Derek S.K. Kawakami, Vice Chair

Rep. Rida T.R. Cabanilla, Rep. Ken Ito, Rep. Mele Carroll, Rep. Mark M. Nakashima, Rep. Jerry L. Chang, Rep. Gil Riviere, Rep. Sharon E. Har, Rep. Cynthia Thielen, Rep. Robert N. Herkes

### NOTICE OF HEARING

DATE: Wednesday, March 21, 2012

TIME: 11:15 a.m.

PLACE: Conference Room 325, State Capitol, 415 South Beretania Street

Aloha Chairman Jerry Chang, Vice Chairman Sharon Har and Members of the Water, Land and Ocean Resources Committee and Chairman Denny Coffman, Vice Chairman Derek Kawakami and Members of the Energy and Environmental Protection Committee:

Please accept this testimony in strong opposition to SB 755 SD2 HD2. Our island lifestyle and environment should remain protected by the laws that are currently in place. The exemptions to environmental laws in SB 755 SD2 HD2 will allow hastily development in sensitive areas near the coastal zones and shoreline areas.

Respectfully,

Wayne Takamine  
Honolulu