

HB 1103, HD1

Measure Title:

RELATING TO IMPACT FEES

Description:

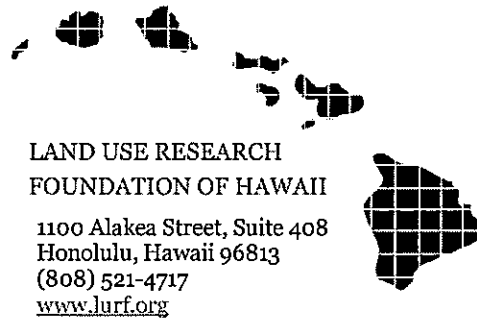
Requires the assessment and collection of impact fees prior to the issuance of a water meter. Effective July 1, 2020. (HB1103 HD1)

HB1103

Submitted on: 3/13/2013

Testimony for PSM on Mar 14, 2013 14:55PM in Conference Room 224

Submitted By	Organization	Testifier Position	Present at Hearing
David Arakawa	Land Use Research Foundation	Oppose	Yes



LAND USE RESEARCH
FOUNDATION OF HAWAII

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March 12, 2013

Senator Will Espero, Chair
Senator Rosalyn H. Baker, Vice Chair
Senate Committee on Public Safety, Intergovernmental and Military Affairs

Comments in Opposition to the Current Form, and proposed Amendments to HB 1103, HD 1, Relating to Impact Fees (Requires the assessment and collection of impact fees prior to the issuance of a water meter.)

Thursday, March 14, 2013, 2:55 p.m., in Conference Room 224

The Land Use Research Foundation of Hawaii (LURF) is a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources and public health and safety.

LURF appreciates the opportunity to provide testimony **in support of the intent of HB 1103, HD1, comments in opposition to the current form of the bill, and to offer proposed amendments for the consideration of this Committee.**

HB 1103, HD1. This bill proposes to revise §46-146, Hawaii Revised Statutes ("HRS") to require impact fees to be assessed and collected from a developer prior to the issuance of a water meter.

Background and Intent. LURF understands that this bill was proposed by the Department of Water of the County of Kauai ("KDOW") which has had a water meter impact fee process, practice and KDOW Rules and Regulations in place since 1970. The KDOW's rules, regulations and practice allow the water impact fee to be collected at the time of water meter issuance and installation.

In 1992, however, §46-146, HRS was adopted as law, and today, provides as follows:

"§46-146 Time of assessment and collection of impact fees. Assessment of impact fees shall be a condition precedent to the issuance of a grading or building permit and shall be collected in full before or upon issuance of the permit."

Notwithstanding the 1992 change in the law, it appears that the KDOW continued with its practice of collecting water impact fees at any time between subdivision approval and the time of water meter installation. With recent new legal representation and review, the KDOW has discovered that their current impact fee process does not match §46-146, HRS. Thus KDOW proposed HB 1103, and in its testimony in support of this bill, it

states, ***“We would like to have the law changed to allow the current practice so we are in sync with the State requirements. The current practice is to collect the fee at subdivision time, or at meter issuance time, depending on when the need for water is identified by the Department Rules and Regulations and the developer or customer.”***

- **County Approval Process.** Each county has its own process for approval of permits; LURF understands that the following is the general sequence of approvals:
 - Submittal of water use report to the county water department and approval of water allocation.
 - Subdivision approval (for parcels which need to be subdivided)
 - Grading permit approval
 - Building permit approval
 - Installation of water meter

- **Uncertainties related to impact fees.** One major problem with the early imposition of impact fees is that in some cases, the basis for those fees may be uncertain, and allowing “flexibility” for the exact time of payment would also create uncertainty for developers. According to the prior testimony of the KDOW, its current practice is to collect the impact fee at subdivision time or at the time of the meter issuance and installation. Kauai DOW notes that, ***“There may even be cases where the full fee is unknown at subdivision time or plans could change from subdivision time to meter installation time.”***

- **Imposing over \$19,000 of water impact fees for one typical residence could substantial impact fees prior to subdivision could create barriers to affordable housing and home ownership.** Requiring payment of potential water impact fees of approximately \$19,000 for a typical single family residence at the time of subdivision (which is prior to the time a homeowner can obtain a mortgage), will create a severe hardship on new home buyers.

LURF understands that according to a January 2013 KDOW-commissioned *“Needs Assessment Study and Facility Reserve Charge Update”*, the current water meter impact fees (facilities reserve charge) is **\$4,600** for a typical single family residential meter (5/8 “) and the KDOW Study includes a proposal for an updated, new water impact fee of **\$19,140** per typical single family residence (without any developer credits for building infrastructure, etc.). For larger residences and projects, the proposed updated water impact fees are even higher.

- **Alternatives.** In the case of Kauai, this proposed increase in “up-front” costs, from \$4,600 to potentially \$19,140, could kill the hopes of many residents of buying a home. It would be a huge obstacle for a local family to come up with over \$19,000 before the lot is even subdivided, and before the family can even apply for a mortgage! **It is much more reasonable to collect the water impact fee at the time of installation of the water meter, where the cost can be covered by the mortgage.**

Another idea might be to follow the examples of SB 1087 or HB 856 (“Green Infrastructure loans), which creates a “pay-as-you-go system” for installation of a photovoltaic system “PV”), which would allow homeowners to enjoy the benefits

of PV renewable energy immediately, and pay for it over time through a charge on their utility bill, also known as "on-bill financing."

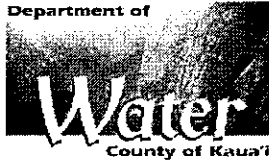
LURF's Position. Requiring the payment of impact fees upon issuance of the water meter is practical, fair and predictable. The successful development of housing, commercial, industrial and public works projects is dependent upon the fairness and certainty of the timing of expected costs and expenses, including the payment of impact fees. While other counties might want to impose a water impact fee "sometime" much earlier than the time of installation of the water meter, Kauai DOW's experience and practice have shown that payment upon the issuance of the water meter has been practical, fair and successful.

Proposed Amendment. Based on the above, LURF respectfully requests that §46-146, HRS, be amended to read as follows:

"§46-146 Time of assessment and collection of impact fees. Assessment of impact fees shall be a condition precedent to the issuance of a [grading or building permit] water meter and shall be collected in full [before or] upon issuance of the [permit.] water meter."

LURF believes that the proposed amendment will provide predictability and fairness for the county water departments, county water customers and developers.

For the reasons stated above, LURF is in **support of the proposed amendment of HB 1103, HD1**, and respectfully urges your favorable consideration of this bill with the proposed amendment.



Water has no substitute.....Conserve it

Testimony of
David R. Craddick, P.E., C.E.M.
Manager and Chief Engineer

Before the Senate Committee on Public Safety, Intergovernmental & Military Affairs
Thursday, March 14, 2013
2:55 pm
State Capitol, Conference Room 224

Honorable Senator Espero and Members of the Committee on Public Safety, Intergovernmental & Military Affairs,

I am writing to you in support of House Bill 1103 which would require the assessment of impact fees prior to issuance of a water meter and requires that impact fees be collected in full before or upon issuance of the water meter.

The Kauai Board of Water Supply has had an impact fee in place since 1970. The laws related to impact fees were approved in 1992 and at this point I am guess that on Kauai it was felt that its rules were grandfathered. With new legal representation, review of State Laws, and the Water Board Rules and Regulations, it was found that when the fee is collected does not match current practice.

We would like to have the law changed to allow the current practice so we are in sync with the State requirements. The current practice is to collect the fee at subdivision time or at meter issuance time depending on when the need for water is identified by the Department Rules and Regulations and the developer or customer.

By allowing the impact fees to be collected no later than meter installation time either case can be accommodated. There may even be cases where the full fee is unknown at subdivision time or plans could change from subdivision time to meter installation time. This flexibility allows better planning and fees imposed that are more closely related to what is needed.

Your favorable consideration and support of HB 1103 would be appreciated. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "D.R. Craddick".

David. R. Craddick, P.E., C.E.M.
Manager and Chief Engineer

BOARD OF WATER SUPPLY

CITY AND COUNTY OF HONOLULU
630 SOUTH BERETANIA STREET
HONOLULU, HI 96843



March 13, 2013

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Manager and Chief Engineer

ELLEN E. KITAMURA, P.E.
Deputy Manager and Chief Engineer

The Honorable Will Espero, Chair
and Members
Committee on Public Safety,
Intergovernmental and Military Affairs
State Senate
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Espero and Members:

Subject: House Bill No. 1103, House Draft 1, Relating to Impact Fees

The Board of Water Supply, City and County of Honolulu, supports House Bill No. 1103, House Draft 1, which authorizes the assessment and collection of impact fees for the allocation of water prior to the issuance of a water meter.

Currently, Section 46-146, HRS, conditions County impact fees to grading and building permits. However, we find the allocation of water resources can also occur without a building permit, through an Application for Water Service. The proposed revision would make the statute consistent with current rules and practices. The amendment also provides greater planning flexibility.

Thank you for your consideration of our testimony on House Bill No. 1103, House Draft 1.

Very truly yours,

ERNEST Y. W. LAU, P.E.
Manager and Chief Engineer