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COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION
HB1941, RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

Testimony of Herman Tuiolosega
Office of Environmental Quality Control

February 6, 2014
8:40 A.M.

1 **Office's Position:** The office of environmental quality control (OEQC) supports the intent of
2 HB1941 but defers to the office of planning/department of business, economic development and
3 tourism (OP/DBEDT), which is the lead agency that has the mandate and budget to address sea
4 level rise and climate changes.

5 **Fiscal Implications:** OEQC does not have adequate staff to assist the EC with research on
6 climate changes.

7 **Purpose and Justification:** HB1941 requires the EC to create rules to address sea level rise and
8 climate changes in environmental assessments (EAs) and environmental impact statements
9 (EIS). Addressing sea level rise and climate changes are very important issues and OEQC
10 appreciates this initiative and diligence.

11 Every EA or EIS must discuss how the proposed action is consistent with the objectives
12 of state and county plans and policies; i.e., State Plan, County Plans, land use ordinances, Ocean
13 Resources Management Plan, the National Flood Insurance Program, are just some of the plans
14 discussed in environmental studies. So if a proposed development is in the shoreline or special

1 management area, the EA/EIS must show how the action is consistent with coastal zone
2 management requirements, in addition to other state/county plans.

3 Thus, sea level rise and climate changes are already being evaluated in Chapter 343
4 studies for proposed action and development. Because of this, OEQC affirms that HRS Chapter
5 343 and the implementing rules are sufficient and this amendment is unnecessary.

6 Thank you very much for the opportunity to testify.

DEPARTMENT OF DESIGN AND CONSTRUCTION
CITY AND COUNTY OF HONOLULU

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February 4, 2014

The Honorable Chris Lee, Chair
and Members
House Committee on Energy and Environmental Protection
State Capitol, Room 436
415 South Beretania Street
Honolulu, Hawaii 96813

The Honorable Clift Tsuji, Chair
and Members
House Committee on Economic Development and Business
State Capitol, Room 402
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Lee, Chair Tsuji, and Members:

House Bill No. 1941, Relating to Environmental Impact Statements

The Department of Design and Construction (DDC) respectfully **opposes** House Bill No. 1941, which requires the Environmental Council to adopt rules requiring environmental impact statements (EISs) to consider sea level rise and other climate changes on any publicly-funded proposed action or development.

The existing rules require EISs to adequately address the probable impacts of a proposed action. The requirement that all EISs shall address the specific impacts of climate change and sea level rise would be unnecessarily burdensome to projects for which these specific impacts are not relevant.

For projects with environmental impacts that may include climate change and/or sea level rise, existing rules that require probable impacts to be comprehensively identified and addressed include the following:

Hawaii Administrative Rules (HAR) 11-200-16, Content Requirements:

"The contents shall fully declare the environmental implications of the proposed action and shall discuss all relevant and feasible consequences of the action..."

The Honorable Chris Lee
The Honorable Clift Tsuji
February 4, 2014
Page 2

HAR 11-200-17, Content Requirements, Draft Environmental Impact Statement,
paragraph I:

“The draft EIS shall include a statement of the probable impact of the proposed action on the environment, and impacts of the natural or human environment on the project, which shall include consideration of all phases of the action and consideration of all consequences on the environment; direct and indirect effects shall be included. The interrelationships and cumulative environmental impacts of the proposed action and other related projects shall be discussed in the draft EIS. It should be realized that several actions, in particular those that involve the construction of public facilities or structures (e.g., highways, airports, sewer systems, water resource projects, etc.) may well stimulate or induce secondary effects. These secondary effects may be equally important as, or more important than, primary effects, and shall be thoroughly discussed to fully describe the probable impact of the proposed action on the environment...”

Other paragraphs in HAR 11-200-17 require a draft EIS to address additional impacts, including the following:

- Both long-term and short term impacts (paragraph J)
- Irreversible and irretrievable commitments of resources, including natural and cultural resources committed to loss or destruction by the action (paragraph K)
- All probable adverse environmental effects which cannot be avoided (paragraph L)
- All substantive comments and responses made during the consultation process (paragraph P)

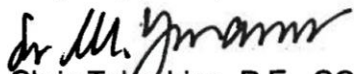
Draft EISs are also required to consider mitigation measures proposed to avoid, minimize, rectify , or reduce environmental impacts HAR 11-200-17 (paragraph M).

Because the existing rules adequately address comprehensive consideration of environmental impacts, the proposed requirement to adopt rules addressing the specific impacts of climate change and sea level rise in all EISs are unnecessary and would be burdensome on projects for which these specific impacts are not relevant.

For these reasons, DDC respectfully **opposes** House Bill 1941.

Thank you for the opportunity to testify.

Very truly yours,



Chris Takashige, P.E., CCM
Director

HB1941

Submitted on: 2/4/2014

Testimony for EEP on Feb 6, 2014 08:40AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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State of Hawaii, 27th Legislature, Second Regular Session

HB1941

RELATING TO ENVIRONMENTAL IMPACT STATEMENTS

House Committee on Energy & Environmental Protection
Public Hearing – Wednesday February 06, 2014
08:40 a.m., State Capitol, House Conference Room 325

By
Dave Penn, Private Citizen
February 05, 2014
COMMENTS ONLY

Aloha Chair Lee, Vice Chair Thielen, Representatives, and other readers

If the legislature chooses to compel new rulemaking by the Environmental Council ("Council"), then the legislature may wish to consider taking additional steps to ensure that the Council will have sufficient funding and expertise to conduct the mandated rulemaking process in a timely manner while delivering a high-quality product. The Council does not have its own budget or staff, and its members serve without pay. Historically, it has obtained ad-hoc funding and bare-bones staff support from the Office of Environmental Quality Control ("OEQC"), aided by sporadic in-kind contributions from interns, volunteers, and the faculty, staff, and students of the University of Hawaii Environmental Center ("ENVCTR") and other university units. OEQC currently has just four employees (one short of its authorized staffing level, which itself is the lowest ever), and the ENVCTR support program appears to be inactive.

As a former leader of ENVCTR programs, collaborator with the Council and OEQC, rulemaking staffer for the State Department of Health, and climate change researcher, I believe that the Council would be hard-pressed to complete the assignment contemplated by this bill without an infusion of additional resources or a commitment for assistance from other entities.

As for the substance of HB1941, for the purpose of continuing debate I suggest that you revise it to read:

"procedures for considering the impacts of future sea level rise,^{*} and other climate changes on any [publicly-funded] proposed action [or development]."

(1) The bill's scope should not be limited to publicly-funded proposals; it should apply uniformly to all actions that trigger the requirement for environmental review under Hawaii Revised Statutes Chapter 343, regardless of the funding source. For example, under the existing statute a privately-funded action that proposes the use of state or county lands—or involves a host of other situations—may trigger the requirement for environmental review. *See* Haw. Rev. Stat. § 343-5(a)(1) *et seq.* Why should such action be treated differently than publicly-funded action?

(2) The phrase "or development" should be removed from the bill because it is unnecessary and potentially confusing. The statute defines "action" and carries it as the main object of the statutory requirements. *See* §§ 343-2 and 343-5. However, "development" appears only in relation to actions that are exempt from the statutory requirements. *See* § 343-5.5(a). What benefit is gained by including "or development" in the bill?

(3) In order to increase the effectiveness of this bill it may be useful to specify additional future climate change impacts that must be considered by rule, particularly with regard to water availability, water quality, and risk of drought/fire/flooding. While sea-level rise has been the highest profile climate change impact in our state, there are many other impacts that reach beyond our coastal lands that deserve equally careful analysis, yet could potentially be omitted from consideration if not specified in the bill.

Thank you for considering this mana`o on HB1491.



HOUSE COMMITTEE ON ENERGY & ENVIRONMENTAL PROTECTION

February 6, 2014, 8:40 A.M.
(*Testimony is 2 pages long*)

TESTIMONY IN SUPPORT OF HB 1941

Aloha Chair Lee and Members of the Committee:

The Sierra Club of Hawai'i, with over 12,000 dues paying members and supporters statewide, ***supports*** HB 1941.

Thirty years ago, this Legislature stated the the purpose of our environmental review is:

The legislature finds that the quality of humanity's environment is critical to humanity's well being, that humanity's activities have broad and profound effects upon the interrelations of all components of the environment, and that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision makers to significant environmental effects which may result from the implementation of certain actions. The legislature further finds that ***the process of reviewing environmental effects is desirable because environmental consciousness is enhanced, cooperation and coordination are encouraged, and public participation during the review process benefits all parties involved and society as a whole.***

Haw. Rev. Stat. § 343-1 (emphasis added).

The Sierra Club believes that Haw. Rev. Stat. Ch. 343 already requires an examination of the impacts of climate change, but this measure would help clarify specifically what is to be examined and instructs the environmental council to draft rules that provide more specific guidance.

We note that the U.S. Environmental Protection Agency has listed a host of possible impacts to Hawai'i based on the risk of sea level rise.¹ These changes could impact a host of public infrastructure development, such as:

- Water resources and our water pumping infrastructure;
- Airports;
- Roads;
- Ports; and
- Hospitals

This doesn't mean these projects could not proceed. Rather, there are many simple options that could help mitigate the potential for harm. For example, machinery could be located on the second floor of a building so as to avoid the impacts of flooding. Storm drains could be build with flaps to avoid the possibility of seawater flowing back onto the streets. And so on.

By reviewing and considering these simple changes, we would help fulfill the intent of our environmental review law, namely to benefit all parties and society as a whole.

Mahalo for the opportunity to testify.

¹ Available at <http://www.epa.gov/climatechange/impacts-adaptation/islands.html>