



HB415
RELATING TO THE COUNTIES
House Committee on Water and Land
House Committee on Ocean, Marine Resources, and Hawaiian Affairs

February 1, 2013

8:00 a.m.

Room 325

The Office of Hawaiian Affairs (OHA) Committee on Beneficiary Advocacy and Empowerment (BAE) **OPPOSES** HB415, which would allow individuals on a vaguely-described county committee to veto state management measures taken to conserve or protect our natural and cultural resources.

This bill may hamper critical management measures taken by the only agency entrusted with managing our natural and cultural resources. The Department of Land and Natural Resources (DLNR) is the only agency entrusted with the constitutional responsibility of managing, conserving, and protecting our fragile and limited natural and cultural resources. In order to carry out this responsibility, the DLNR may promulgate rules regulating the use of such resources, but only after an extensive public outreach and vetting process in which there are multiple opportunities to voice constituent concerns. This bill will grant a vaguely described county committee veto power over such proposed management measures. Thus, a committee of just two individuals with little to no scientific or cultural expertise may unilaterally stop a management measure that could substantially benefit county residents or their local environment. There is no other role or resources provided for such a committee to otherwise affirmatively manage, conserve, or protect the natural or cultural resources in its respective county.

The DLNR rulemaking process is replete with opportunities for county input. As indicated above, the rulemaking process for DLNR management measures provides multiple opportunities over an extensive period of time for county residents and agencies to participate in the promulgation of conservation rules.¹ In addition to informal scoping and outreach in affected counties, the DLNR rulemaking process provides for at least two public meetings before the Board of Land and Natural Resources (BLNR), one requesting approval to hold a public hearing over the proposed rules, and one requesting BLNR approval of such rules.² The BLNR itself is composed of individuals representing each of the counties, in addition to three at-large positions.³ Prior to the aforementioned public hearing, many if not most rules must also be vetted in a public meeting before the Small

¹ See Governor's Administrative Directive No. 09-01.

² See HRS § 91-3; HAR chapter 13-1.

³ HRS § 26-15.

Business Regulatory Review Board (SBRRB), on at least one if not two separate occasions.⁴ Like the BLNR, the SBRRB is further comprised of members from each county.⁵ Finally, public hearings are also normally conducted in the county where proposed rules would specifically take effect. Thus, counties and their residents have extensive opportunities to provide county-specific input throughout the DLNR rulemaking process.

This bill may inhibit the state's ability to address county-specific concerns.

Finally, the procedural barrier proposed in this measure will inhibit the state's ability to proactively and specifically address concerns that may be specific to a county. The potential for county veto power over a county-specific rule may inhibit county-specific rules from even being contemplated, much less promulgated. For example, Maui residents may greatly prefer a regulation that protects their resources, which may not be politically or environmentally feasible in the other counties. The existence of a committee within Maui county that functions only to veto a Maui-specific rule may inhibit DLNR's ability or will to engage in such rulemaking, while a statewide alternative approach may not be feasible or appropriate. Accordingly, this bill may in fact diminish the ability of counties and their residents to address localized resource concerns.

Therefore, OHA's BAE Committee urges these committees to **HOLD** HB415. Thank you for the opportunity to testify.

⁴ HRS §§ 201M-2, -3.

⁵ HRS § 201M-5(b)(7).

lowen2-Anosh

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, January 30, 2013 11:40 PM
To: waltestimony
Cc: OccupyHiloMedia@yahoo.com
Subject: Submitted testimony for HB415 on Feb 1, 2013 08:00AM

HB415

Submitted on: 1/30/2013

Testimony for WAL/OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Kerri Marks	Individual	Support	No

Comments: Strongly support this measure which supports and encourages home rule powers for the outer islands.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

lowen2-Anosh

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 31, 2013 12:16 AM
To: waltestimony
Cc: slwsurfing@yahoo.com
Subject: Submitted testimony for HB415 on Feb 1, 2013 08:00AM

HB415

Submitted on: 1/31/2013

Testimony for WAL/OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
sharon willeford	Individual	Support	No

Comments: I live in Kona. We/ the people want to participate in future development decision making. ABOLISH the PLDC - set up these advisory committees please. A 30 yr. devoted DOE teacher.

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

lowen2-Anosh

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 31, 2013 2:21 AM
To: waltestimony
Cc: barb@punapono.com
Subject: Submitted testimony for HB415 on Feb 1, 2013 08:00AM

HB415

Submitted on: 1/31/2013

Testimony for WAL/OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Barbara Cuttance	Individual	Support	No

Comments: Thank you for the opportunity to give testimony in support of HB415. It is essential that people throughout Hawaii are able to participate when decisions that effect them directly are being made by having the opportunity to participate at the County level, particularly when it comes to the management of land. This was absent when Act 97 and Act 55 came into being. While I do very much support HB415 I also support the repeal of both Act 97 and 55 and I do not see HB415 as a cure all for the deficiencies created by those two acts in the area of public participation. The passing of Act 97 and 55 has left a deep sense of mistrust in the people of Hawaii, the only way for this to be healed and the peoples faith in the government is the repeal of these two acts. I appreciate the committee's time in hearing and reading testimony on this important issue. Barbara Cuttance, 14/266 Papaya Farms Road, Pahoehoe, Hawaii 96778

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

lowen2-Anosh

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 31, 2013 2:52 AM
To: waltestimony
Cc: nimo1767@gmail.com
Subject: Submitted testimony for HB415 on Feb 1, 2013 08:00AM

HB415

Submitted on: 1/31/2013

Testimony for WAL/OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Robert Petricci	Puna Pono Alliance	Support	No

Comments: February 1, 8:00am Re: HB415 Position: Support Aloha Representative Nakashima and committee members My name is Robert Petricci, I am testifying in support of HB 415 I support more decision making at the county level and believe that allows for more participation from the residents that live in the counties. I oppose the PLDC and want to see more home rule and control of land use decisions by the counties. The outer island residents are at a disadvantage at the state legislature since we are unable to participate without costly and time consuming air travel to attend hearings. We support anything that allows more participation in our government at the county level and in our law making processes, we support HB415 Robert Petricci President Puna Pono Aliance

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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

lowen2-Anosh

From: mailinglist@capitol.hawaii.gov
Sent: Thursday, January 31, 2013 9:44 AM
To: waltestimony
Cc: shannonkona@gmail.com
Subject: *Submitted testimony for HB415 on Feb 1, 2013 08:00AM*

HB415

Submitted on: 1/31/2013

Testimony for WAL/OMH on Feb 1, 2013 08:00AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	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.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

NEIL ABERCROMBIE
GOVERNOR OF HAWAII



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

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

WILLIAM J. AILA, JR.
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ESTHER KIA'AINA
FIRST DEPUTY

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

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

**Before the House Committees on
WATER & LAND
and
OCEAN, MARINE RESOURCES, AND HAWAIIAN AFFAIRS**

**Friday, February 1, 2013
8:00 AM
State Capitol, Room 325**

**In consideration of
HOUSE BILL 415
RELATING TO COUNTIES**

House Bill 415 proposes to authorize each county to establish a land management advisory committee and requires the Department of Land and Natural Resources (Department) to receive approval from the appropriate land management advisory committee prior to adopting any county specific rule that affects the use or management of land or nearshore waters within the county. The Department opposes this bill and provides the following comments.

House Bill 415 appears to create an additional step in the already cumbersome administrative rulemaking process. The Department comments that it might be more efficient and less costly to effectuate the bill's intent through already existing committees or procedures, or establish such a committee to serve only in an advisory capacity rather than as an approving entity.

Thank you for the opportunity to testify.