



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

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Statement of
RICHARD C. LIM
Director

Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS
Friday, February 22, 2013
9:00 AM
State Capitol, Conference Room 211

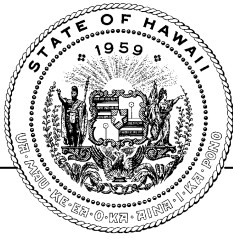
in consideration of
SB 1027
RELATING TO COASTAL ZONE MANAGEMENT.

Chair Ige, Vice Chair Kidani, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the Administration's Bill, SB 1027, relating to Coastal Zone Management (CZM).

Senate Bill 1027 recognizes the State's preemptive authority over counties on developments on State lands within the special management areas, while ensuring consistency with Hawaii Revised Statutes Chapter 205A, the Hawaii CZM Act. This Administration Bill provides a streamlined review process for development by a State agency on State land within the special management area (SMA), in place of a county approved SMA permit and shoreline setback variance. We believe that SB 1027 will help the State expeditiously deliver capital improvement projects and repair and maintenance projects without sacrificing coastal resources.

Thank you for the opportunity to provide testimony on this measure.



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Statement of
JESSE K. SOUKI
Director, Office of Planning
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS
Friday, February 22, 2013
9:00 AM
State Capitol, Conference Room 211

in consideration of
SB 1027
RELATING TO COASTAL ZONE MANAGEMENT.

Chair Ige, Vice Chair Kidani, and Members of the Senate Committee on Ways and Means.

The Office of Planning (OP) administers Hawaii Revised Statutes (HRS) Chapter 205A, the Coastal Zone Management (CZM) law. The special management area (SMA) permitting system is part of the federal and state approved Hawaii CZM Program. The purpose of HRS Chapter 205A is to “provide for the effective management, beneficial use, protection, and development of the coastal zone.” L. 1997, c 188 §1.

OP supports the Administration's Bill, SB 1027, Relating to CZM. SB 1027 allows state agencies with developments on state land within the SMA to either self-certify compliance with HRS Chapter 205A, obtain a federal consistency concurrence pursuant to title 15 Code of Federal Regulations part 930, or continue to go through the SMA permitting and shoreline setback variance processes if they prefer.

Last session, the Legislature and the Governor requested that OP examine streamlining for SMA permits for state projects. SB 1027 provides a streamlined review process for developments by a state agency on state land within the SMA. The state consistency review and certification will help the state expeditiously deliver capital improvement projects and repair and maintenance projects, without sacrificing coastal resources.

Thank you for the opportunity to provide testimony on this measure.

**Office of Planning, State of Hawaii
Frequently Asked Questions
State Consistency Review and Certification
SB1027/HB797**

2013 Legislative Session

1. **QUESTION:** What is the purpose of bills SB1027 and its companion HB797?

ANSWER: The purpose of these bills is to provide a streamlined state consistency review process for development by a state agency on state land within a special management area (“SMA”) in place of a county approved SMA permit and shoreline setback variance. In light of scarce resources, reductions in staff, and reduced funding support for state programs, the state consistency review and certification process (1) allows the Hawaii CZM Program to remain consistent with the state and federally approved CZM Program, and (2) helps the state expeditiously deliver capital improvement and repair and maintenance projects.

2. **QUESTION:** What is an SMA permit?

ANSWER: The SMA permit process is a part of Hawaii’s state and federally approved Coastal Zone Management (“CZM”) Program. The SMA is a specific, delineated area extending inland from the shoreline to a boundary determined by each county. The SMA is a subset of Hawaii’s coastal zone, which includes all lands of the state and the area extending seaward from the shoreline to the limit of the state’s police power and management authority, including the United States territorial sea.

3. **QUESTION:** Isn’t this just another exemption?

ANSWER: No, projects will not be exempt from the CZM law. This is a streamlining effort to make the process simpler and more efficient, while still achieving the purpose of Hawaii’s CZM law to “provide for the effective management, beneficial use, protection, and development of the coastal zone.” See L. 1977, c 188, § 1.

4. **QUESTION:** Why is consistency with the CZM law important?

ANSWER: In 1975, our legislature found that “special controls on developments within an area along the shoreline are necessary to avoid permanent losses of valuable resources and the foreclosure of management options, and to ensure that adequate access, by dedication or other means, to public owned or used beaches, recreation areas, and natural reserves is provided.” Furthermore, our legislature declared “that it is the state policy to preserve, protect, and where possible, to restore the natural resources of the coastal zone of Hawaii.” This was codified in HRS § 205A-21 and is still important to current and future generations. Consistency is also required for continued federal funding support of the Hawaii CZM Program. See CZM Act of 1972, codified as 16 U.S.C. §§ 1451-1465, available at <http://goo.gl/SQ2F8>.

5. **QUESTION:** Why is the Office of Planning proposing this bill?

ANSWER: During the 2012 legislative session, legislators and the Governor requested that the Office of Planning, as the lead agency for the Hawaii CZM Program, consider streamlining SMA permitting for state projects.

6. QUESTION: Who was consulted in drafting this bill?

ANSWER: Drafting of the bill was done in consultation with various stakeholders who have jurisdiction and regulatory responsibility over CZM Act implementation. The Office of Planning sought comments from: Department of Land and Natural Resources, Division of Forestry and Wildlife, Division of State Parks, Division of Boating and Ocean Recreation, Office of Conservation and Coastal Lands; Department of Transportation, Airports Division, Harbors Division, Highways Division, Statewide Transportation Planning Office; Office of Hawaiian Affairs; all four county planning departments; and the Marine and Coastal Zone Advocacy Council (a 12-member public advisory board with at least two members from each county). The director also discussed the Office of Planning’s proposal at various presentations before such audiences as the 2012 Hawaii Congress of Planning Officials, the Environmental Caucus of the Democratic Party of Hawaii, and members of the Environmental Council.

7. QUESTION: Who decides whether a proposed action by a state agency on state land within the SMA is a “development” subject to state consistency review and certification?

ANSWER: “Development” is defined under HRS § 205A-22. State agencies will decide whether or not an action is a development in consultation with the Office of Planning.

8. QUESTION: How is the bill structured, and how can the public participate?

ANSWER: The bill proposes adding a new section to Part II of HRS Chapter 205A. This new section sets forth the process for state consistency review and certification. In short, the process is as follows: (1) The state agency files a notice of the state consistency review with the Office of Environmental Quality Control (OEQC), and allows a thirty-day public comment period; (2) The state agency provides a copy of its notice to the Office of Planning; and (3) The state agency files a notice of state consistency certification attesting that it has consulted and it is consistent with the CZM law. Public comments and responses thereto are made available to the public. In addition, the public may seek judicial remedies under HRS § 205A-33.

9. QUESTION: Does the bill preclude state agencies from following the current process?

ANSWER: No. A state agency may choose to follow the existing SMA.

10. QUESTION: How can I learn more about the CZM Program?

ANSWER: Visit the CZM Program’s SMA web page at <http://www.state.hi.us/dbedt/czm/program/sma.php>.

To follow Office of Planning initiatives and projects, join us on Facebook (www.facebook.com/OfficeofPlanning.HIgov) and Twitter (twitter.com/PlanningHIgov).



SB1027
RELATING TO COASTAL ZONE MANAGEMENT

Senate Committee on Ways and Means
Senate Committee on Economic Development, Government Operations and Housing

February 22, 2013

9:00 a.m.

Room 211

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB1027, which would provide for state administration of state projects involving activities in the special management areas and shoreline setback areas throughout the various counties.

This bill allows state shoreline development projects to move forward outside of the county-administered special management area permitting process, and without a county-approved shoreline setback variance as currently required under the state Coastal Zone Management Act (CZMA). The proposed “streamlined” process does provide for state review of projects for “consistency” with certain selected provisions of the CZMA, that are currently administered and implemented by the counties.¹ However, it is unclear whether or how such “consistency” certification will reflect the application of subjective standards, such as “reasonable” minimization of dredging or reduction of beach or public access, or the minimization of substantial adverse environmental impacts “to the extent practicable.”² **Insofar as such subjective standards, which are currently implemented by individual counties, would be applied by the state, this bill raises questions as to whether or how Honolulu-based state agencies will adopt subjective permitting and variance standards that may vary across the four counties.**

Ideally, any state projects that occur under this bill will reflect a recognition of the local county standards and norms for “reasonable” minimization of harmful activities, and the minimization of impacts “to the extent practicable,” among other subjective requirements within the CZMA.

Mahalo for the opportunity to testify on this measure.

¹ Such “consistency certification” does not appear to take into account current requirements relating to aesthetic illumination of beaches and shoreline areas, county general plans or zoning districts, or the taking or mining of sand, dead coral, or rubble. See HRS §§ 205A-26(2)(C), -30.5, -44; cf. H.B. 797 page 3 lines 11-19.

² HRS § 205A-26(2)(A).

From: mailinglist@capitol.hawaii.gov
To: [WAM Testimony](#)
Cc: alemorrier@gmail.com
Subject: *Submitted testimony for SB1027 on Feb 22, 2013 09:00AM*
Date: Wednesday, February 20, 2013 10:13:47 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Alicia Morrier	Individual	Oppose	No

Comments:

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SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
April Lee	Individual	Oppose	No

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SB1027

Submitted on: 2/20/2013

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Submitted By	Organization	Testifier Position	Present at Hearing
Brad Parsons	Individual	Oppose	No

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Subject: *Submitted testimony for SB1027 on Feb 22, 2013 09:00AM*
Date: Wednesday, February 20, 2013 4:08:54 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Caki Kennedy	Individual	Oppose	No

Comments:

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Subject: *Submitted testimony for SB1027 on Feb 22, 2013 09:00AM*
Date: Thursday, February 21, 2013 12:29:12 AM

SB1027

Submitted on: 2/21/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Dana G. Moss	Individual	Oppose	No

Comments:

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Subject: *Submitted testimony for SB1027 on Feb 22, 2013 09:00AM*
Date: Wednesday, February 20, 2013 7:28:28 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Oppose	No

Comments:

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Cc: jemray@hawaii.rr.com
Subject: Submitted testimony for SB1027 on Feb 22, 2013 09:00AM
Date: Wednesday, February 20, 2013 8:48:43 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Janet Murray	Individual	Oppose	No

Comments: I oppose SB1027

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SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
janice palma-glenie	Individual	Oppose	No

Comments: This bill is extreme in its lack of support for sound, proper land use planning and coastal protection. Please oppose this bill and any attempts to exempt any entities, including state, from avoiding full SMA and other land use review. mahalo.

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Date: Wednesday, February 20, 2013 4:43:28 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Jonathan R Cole	Individual	Oppose	No

Comments: No sneaky tricks!

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Cc: juliahorn1@yahoo.com
Subject: *Submitted testimony for SB1027 on Feb 22, 2013 09:00AM*
Date: Wednesday, February 20, 2013 3:57:02 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Julia Horn	Individual	Oppose	No

Comments:

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SENATE COMMITTEE on WAYS & MEANS

**February 22, 2013, Decision-Making
Conference Room 211
9:00 AM**

**SENATE BILL 1027
RELATING TO COASTAL ZONE MANAGEMENT**

Testimony in OPPOSITION Respectfully Submitted by Michelle S. Matson

In agreement with OHA, this bill raises questions as to whether or how Honolulu-based state agencies will be able to adopt subjective permitting and variance standards that may vary across the four unique counties.

Further, while SB 1027 postures as an efficiency-motivated regulatory "streamlining" measure, this PLDC-type exemption proposal provides that any and all state agency and potentially state/private partnership developments on state land "shall" be allowed within a special management area without obtaining a permit or shoreline setback as otherwise required by law.

This measure flies in the face of the public interest and established protective public policy. SB 1027 exempts state agency development projects from being consistent with county general plans and zoning, and limits public input and participation. Specifically, under the proposed state "consistency" review there is only one (1) opportunity for public input, which is during a limited 30-day comment period.

SB 1027 flies in the face of County home rule. Hawai'i's required Special Management Area Permit process ensures the county's role in the protection of our islands' fragile coastal areas under Hawai'i's federally-recognized and federally-funded Coastal Zone Management Law, HRS 205A.

Protection of our Islands' fragile and finite coastal and marine resources does not distinguish state development projects, and potentially state/private partnership development projects, from any other development that is required to be evaluated for cumulative long- and short-term adverse impacts to these finite and fragile resources.

Eliminating the established SMA review process, limiting public participation, and exempting compliance with county plans and zoning as advocated in SB 1027 is irresponsible and must not be allowed in the greater public interest.

Please kill this dangerous bill.

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Cc: shannonkona@gmail.com
Subject: *Submitted testimony for SB1027 on Feb 22, 2013 09:00AM*
Date: Wednesday, February 20, 2013 1:55:49 PM

SB1027

Submitted on: 2/20/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments:

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Date: Thursday, February 21, 2013 8:35:11 AM

SB1027

Submitted on: 2/21/2013

Testimony for WAM on Feb 22, 2013 09:00AM in Conference Room 211

Submitted By	Organization	Testifier Position	Present at Hearing
Toni Withington	Individual	Oppose	No

Comments: Quit fooling with the environmental and coastal protection laws. We put them there for a reason. Malama Solomon says she wants to protect the coast then does stuff like this. Enough. Pau.

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